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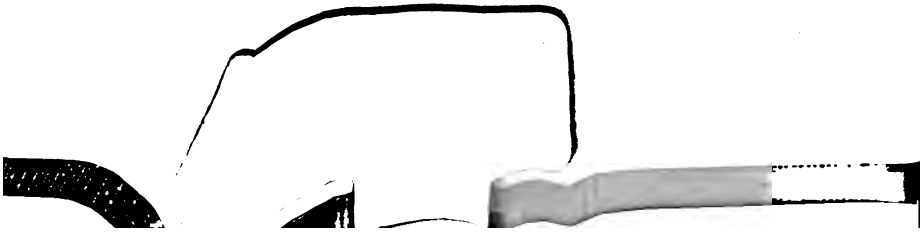

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TRIAL

OF

CHARLES A. EDMONDS,

COMMISSIONER OF THE LAND OFFICE

OF THE

STATE OF MICHIGAN,

BEFORE THE

SENATE OF SAID STATE,

ON AN

IMPEACHMENT,

PREFERRED BY THE HOUSE OF REPRESENTATIVES AGAINST HIM, FOR CORRUPT CONDUCT IN OFFICE, CRIMES AND MISDEMEANORS.

VOL. II.

BY AUTHORITY.

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TESTIMONY OF S. C. ALDERMAN.

S. C. Alderman, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Grosvenor:

Question. Where do you reside?

Answer. In the village of Ionia.

Q. How long have you resided there?

A. About twenty-five years.

Q. What is your principal business and occupation?

A. Land surveyor, civil engineer, land selector, and dealer in lands.

Q. State whether you ever made an application for land on section 16,—school lands,—town 24 north, range 3 west?

A. Yes, sir.

Q. Two fractions, 5 and 6, lying upon the lake?

A. Yes, sir. I didn't make any written application.

Q. Did you apply for them?

A. Yes, sir.

Q. When?

A. It was about the last of December, 1871.

Q. About the last?

A. Yes, sir; near the last.

Q. State what you said and did at the office, with reference to purchasing those lands.

A. I asked Mr. Robinson if I could have those lands a quarter down? He said I could have them at a quarter down, if I would make an affidavit that they were not valuable for timber.

Q. Did he give you the form of an affidavit?

A. Yes, sir.

Q. Have you that form with you?

A. I may have it with me.

Q. Just look and see whether you have it in your memorandum.

[Witness produces an affidavit.]

Q. Was it a printed form?

A. Yes, sir.

Q. Why didn't you make the affidavit?

A. I could not make it conscientiously.

Q. What was the character of that land? Has it pine or valuable timber upon it?

A. Part of it is pine.

Q. Did you have any talk, at that time, with Mr. Barnard about it?

A. No, sir.

Q. This was with Mr. Robinson, was it?

A. Yes, sir.

Mr. Manager Grosvenor—We offer this affidavit to show the rule of the office,—this printed form with the instructions at the bottom.

The following is the printed affidavit referred to:

[EXHIBIT HH.]

STATE OF MICHIGAN, } ss.
County of ——, }

—— and —— of the township of —— in said county, being duly sworn, depose and say, that they are well acquainted with the following described land, to wit: —— in the county of ——, and State of Michigan, and know that the same is valuable mainly for agricultural purposes. And deponents further say that the timber standing and growing on said land is not pine, cedar, or hemlock, making said land valuable for lumber purposes, but that the timber growing thereon is principally ——.

Subscribed and sworn to before me, this —— day of —— A. D. 18—.

NOTE.—This affidavit to be made by the supervisor of the township, or by two responsible persons, residents of the town in which the land is situated.

Q. What did you do then?

A. I went to Saginaw.

Q. What further in reference to getting this land?

A. Mr. Goddard asked me if I had any minutes of good pine lands?

Q. Did you give him any?

A. Yes, sir.

Q. Did you give him these minutes?

A. I gave him some minutes on the S. E. ¼ of Sec. 16, 24 north, 3 west.

Q. Just state whether they were those two fractions, and what number they are [showing witness a book],—whether they were numbers five and six?

A. Lots No. 5 and 6.

Q. Did you give him these?

A. Yes, sir.

Q. As shown on this book as primary school lands?

A. Yes, sir.

The Presiding Officer—The Senate will take an informal recess for ten minutes.

AFTER RECESS.

The Presiding Officer—The Honorable Managers will proceed.

Question. You stated you gave the minutes of this land to Mr. Goddard; is it E. G. Goddard?

Answer. Yes, sir.

Q. Were you to have any interest in the land?

A. Yes, sir.

Q. Will you state whether Mr. Goddard made application for that land, immediately?

A. Yes, he wrote a letter.

Q. Making application?

A. Yes, sir.

Q. What are the contents of the letter?

Mr. Shipman—We object. We object to the question because it calls for secondary evidence, and there is better evidence of the fact. If they claim the letter was destroyed, let

them say so, and then the next evidence would be either the man who wrote it or the man who read it. If the letter was sent to the Commissioner's office, a request should be made to produce it; and if it is not produced, possibly then secondary evidence might be produced. But it seems to me, at this time the evidence is inadmissible.

Mr. Manager Grosvenor—We have attempted to show, by a clerk in the office, that after a careful deposit of that paper in a depository in the office, the only two places it can be found in the office—the letter-book and the boxes—and they are not there, I submit that, if we went to the proper repository in the office, it is equivalent to examining the whole office. No court would require every paper in the office to be examined, before it would say that it was not there. We think we have made a *prima facie* case, and we have asked them to produce it. We ask from the witness the contents of this paper,—that was the paper Griswold was interrogated about,—and we have asked them to produce it; and I understand they don't require any written notice.

The Presiding Officer—At any other time than just the present, has there been any request?

Mr. Manager Grosvenor—Not formally, but this morning there was an hour's time expended with one of the witnesses on the stand, to find the paper.

Mr. McGowan—The proof of the loss of this letter was only made by the clerk Griswold, and it will be borne in mind that Griswold testifies that with that department of the office, he had no knowledge of, and was not familiar with it, and that he made the search where he supposed it was.

The Presiding Officer—It is the opinion of the Chair that there has not been sufficient showing to entitle you to go into that. The witness never saw the letter.

Mr. Manager Grosvenor—Yes, he said he saw the letter.

The Presiding officer—Very well, I will sustain the objection on the other ground. I will take a vote of the Senate, if desired.

Senator Ball—I would like a vote of the Senate upon it.

Mr. McGowan:

Question. Did you read the letter?

Witness—I did not read the letter; Mr. Goddard read it.

Q. To you?

A. Yes, sir.

The Presiding Officer—The question is, Shall the question asked by Mr. Manager Grosvenor be put to the witness? Those of you in favor will, as your names are called, respond Aye; those opposed, No.

Senator Wheeler—Do the gentlemen ask time?

Mr. McGowan—We do.

Mr. Manager Grosvenor—If there is any probability of the letter being found, I will not ask him now. I will ask that the search may be made. I made a search this morning, and I demanded of the chief clerk this paper, and he contemptuously told me that there was no affidavit, and he would take the responsibility. I got this clerk and brought him in, and this clerk was asked to give me these papers from the repository for them. I then ask the clerk to come in and testify.

The Presiding Officer—The question is, Shall the question be put to the witness? The Secretary will call the roll.

The Secretary called the roll, and the question was ordered put to the witness, by yeas and nays, as follows:

YEAS.

Mr. Ball,	Mr. Moffatt,	Mr. Stockbridge,	
Begole,	Neasmith,	Storrs,	
Cawley,	Prutzman,	Waterbury,	
Dexter,	Putnam,	Wheeler,	
Gay,	Randall,	Wilcox,	
Hannahs,	Romeyn,	Wood,	
Mann,	Sheley,		20

NAYS.

Mr. Alexander,	Mr. Price,	Mr. President *pro tem.*,	4
Barber,			

The Presiding Officer—The yeas being 20 and the nays 4, the question will be put to the witness.

Question. That letter was read to you, I believe you said, after it was written?

Answer. Yes, sir.

Q. And you were interested in the subject-matter?

A. Yes, sir.

Q. Now, will you state what were the contents of that letter, as near as you can?

A. I don't know as I can, every word of it.

Q. The substance?

A. The description was put in, but it was not put in by the number of the lot, but all the vacant land in that section. I hadn't the number of the lot with me, but I had the number of acres, he wrote. The way he read the letter to me, he wrote to Mr. Barnard, and applied for that land, saying here is a five-dollar bill—do you want I should give the exact language?

Q. Give the exact language if you can?

A. "For God's sake, do something for a poor fellow."

Q. Was there any money sent besides that?

A. There was a draft.

Q. For how much?

A. I think it was $60.80,—a dollar per acre at all events.

Q. Was there any affidavit enclosed that it was not valuable for pine?

A. No, sir; not that I saw.

Q. That letter was sent off and mailed?

A. Yes, sir.

Q. Now, can you tell me what the result of the application was in that form to get the land?

A. I got a letter in two or three days after I got home to Ionia, that he had got the land, and it was all right.

Q. Was that application of yours before the application of Mr. Goddard?

A. Yes, sir.

Q. Didn't you inform Mr. Goddard that you had been refused the land?

A. Yes, sir.

Q. I believe you stated that it was valuable for timber?

A. Yes, sir.

Q. Is it valuable for farming purposes? Is it not valuable only for timber?

A. I think it will make good farming lands.

CROSS-EXAMINATION OF S. C. ALDERMAN.

Cross-examined by Mr. Shipman:

Question. You say you have looked this land?

A. Yes, sir.

Q. How much pine was there on it?

A. I do not recollect exactly my estimates. I have not got my book with me.

Q. How many acres are there in lots 5 and 6 together, do you think?

A. There are almost 60 acres,—59 and 80-100ths, to the best of my recollection.

Q. Where does it lie,—not the numbers of the locality of the land, but with reference to the bounds,—by lakes, or any thing of that kind?

A. It is situated on the east side of Hagan's Lake.

Q. How near to the lake?

A. It is on the lake shore.

Q. How is the land near the shore of the lake, of these pieces?

A. There is a little strip along there of small pine; some of it has not got any timber on it.

Q. How wide is it?

A. It varies from 10 to 15 rods.

Q. Do both pieces lie on the shore?

A. Yes, sir.

Q. What is the extent, in rods, should you say of land on the shore of the lake? You have seen it?

A. I have been on the land.

Q. You may not get it right, but give your estimate?

A. It may be 160 rods.

Q. How far back from the margin of the lake should you say the average would be that this strip of small pine extended?

A. Oh, not but a few rods.

Q. Can you give the number of the rods more definitely than that?

A. I think I could mark it out,—the east side of it is pine, back from the lake a little.

Q. How much of the east side?

A. Well, the belt of timber varies over its course.

Q. How many acres of it should you say was valuable pine?

A. Well, there is about 40 acres,—nearly that.

Q. Of the sixty?

A. Yes, sir.

By Mr. Manager Grosvenor:

Question. Forty acres of pine?

Answer. Yes, sir; nearly that.

By Mr. Shipman:

Question. Now, will you state how many acres of it is valuable principally for timber?

Answer. Well, there is about 30 acres of it well pined.

Q. How many acres of it is valuable chiefly or principally for other purposes than timber?

A. For farming purposes?

Q. Yes, sir.

A. Well, I should think it was pretty much all.

Q. The balance of it?

A. It is lightish soil. I think it would answer for farming land.

Q. What kind of soil?

A. Sandy, gravelly soil.

Q. This timber you speak of, is it on one lot principally, or scattered, reaching across both lots?

A. It is not scattered a great deal; it is in one belt, mostly.

Q. Crossing both lots?

A. Yes, sir.

Q. This thirty acres,—would you say it was worth most for timber, or worth most for farming purposes?

A. Worth most for timber.

Q. What kind of timber is it besides pine.

A. Well, there is occasionally a small oak.

Q. Any other hard wood?

A. A little maple; some call it "soft maple," we call it "maple" in field-notes.

Q. State the surroundings of this land,—what the timber is around it?

A. It is mostly pine.

Q. Mostly pine?

A. Yes, sir.

Q. Are there farming lands joining it on either side.

A. No, sir.

Q. Not valuable for timber?

A. No, sir.

The Presiding Officer—What is the answer?

Answer. No, sir, not very close to it; not on the adjoining sections.

Q. How near do they come?

A. Well, there are plains within ten miles.

Q. Well, land that is not valuable, principally for timber,—are there such lands adjoining it?

A. The lot on the south, the east part of it is pine, and near the lake it is not valuable for timber, close to the border; and the section on the east and south part of it is valuable for pine.

Q. Is not the lake on the south of it?

A. Well, the lake takes a southeast direction,—there is a curve in the lake,—it makes a point east.

Q. Is not the lake entirely south of both pieces,—nothing but the lake south of one of the pieces?

A. Well, it is nearly all lake, I think.

Q. Is it not quite.

A. I think not.

Q. Which piece is that?

A. The south piece of the section corner is some little distance from the lake; I do not recollect the distance.

Q. Do the pieces lie north and south of each other,—5 and 6?

A. I will have to correct up there. I guess they corner.

Q. The pieces corner, do they?

A. Yes, sir.

Q. Which corners, now, come together of the pieces?

A. The southwest corner of the south piece corners on the southeast corner of the north piece.

Q. The southwest corner of the south piece corners on the southeast corner of the north piece?

A. Yes, sir.

Q. Now, is that possible?

A. Well—

Q. I wish your recollection of the matter.

A. That is my recollection. That map there does not correspond.

Q. That that corner was not the southeast corner of the north piece,—it was the southeast corner of the south piece?

A. That is what I mean, but I think according to that book, they join. I know there is some confliction between this book and the book at Grand Traverse,—the shape of the lake and the lay of the land.

Q. Now, in the west piece, or the north piece, whichever you choose to call it, does the lake touch that?

A. Yes sir.

Q. How wide a strip is there of it?

A. It touches both pieces.

Q. How wide is that?

A. Well sir, I do not recollect exactly the width. The north end is wider than the south end.

Q. It lies on the north side of the lake, does it not?

A. The north and east.

Q. Can you tell me how the north end can be wider than the south end, if it lies on the north side of the lake?

A. The lake runs in a northwesterly direction through the section.

Q. Is that piece of land longer north and south than it is east and west,—what you call the north lot or the west lot.

A. It is longer on the north side than it is on the—

Q. South side?

A. Yes, sir.

Q. The north side is a straight line?

A. Yes, sir.

Q. The south side is a meandering line?

A. Yes, sir.

Q. On the shore of the lake?

A. Yes, sir.

Q. The east line is straight?

A. Yes sir.

Q. And the west line is straight?

A. It is not parallel with the east line.

Q. How wide is it on the west side, from the lake to the north line?

A. Which piece do you mean?

Q. We will call it lot five,—the west or north lot. You have called it the north lot sometimes?

A. It would be over 80 rods.

Q. On the west line of lot five?

A. Yes, sir.

Q. Then how far would it be on the east line?

A. Eighty rods, or thereabouts.

Q. The same distance?

A. No, sir.

Q. How far from the north line of lot five, to the lake,—measuring at the east line of the lot?

A. I understood you to ask me what length the west line was?

Q. I did ask you, and you said it was 80 rods.

A. Over 80 rods.

Q. Now, the east line there that runs north and south on the east side of the lot,—how long is that?

A. It is 80 rods, more or less, according to the government survey.

Q. How many acres are there in that piece?

A. Thirty odd acres in the north lot. I do not recollect exactly the number, but it is over thirty acres.

Q. There is no north lot; they lie east and west. That is the fact upon the plat.

A. The land does not lie that way, sir.

Q. Might you not have been on the wrong land?

A. I think not, sir. When I go to a section corner, I know where I am generally.

Q. Mistakes will happen in the best families. These are the lands [showing the plat to the witness]. The lots lie east and west there, do they not?

A. They lie east and west. I have got the thing mixed a little.

Q. So they do not corner at all?

A. No, sir.

Q. Where did you get your plats about these lands?

A. I got my township plats at Grand Traverse.

Q. Will you state which of those lots are numbers five and six on your plat?

A. I was mistaken as to the location of the land. I have it platted here on my plat-book, that the west one is five and the east one six.

Q. The lands do not corner?

A. No, sir.

Q. Do you say it is 80 rods from the north line of the west lot to the lake, measuring on the west line of the lot?

A. No, sir; it does not appear so here.

Q. After looking over the plats, what do you say about the distance?

A. About 30 rods.

Q. How much pine timber do you think there is on those lands?

A. From my best recollection, about 300,000.

Q. How many acres on those lots five and six?

A. Thirty acres are pined all over, and about ten acres more scattering.

Q. Is there the same amount on this land that there is on those lots that you were speaking about,—that corner?

A. This is the same land that I examined. I told you I was mistaken as to the lots lying north and south.

Q. The lands you looked at cornered?

Q. No sir; those are the lands I looked.

Q. Did you not say a little while ago that if they did not corner they were wrong?

A. I was thinking the map showed them cornering at the Traverse office. I know there was a conflict between that map and these; that is where I got mixed.

Q. Whereabouts now does that pine lie? Look right on the plat and state where the pine lies.

A. On the east and north side.

Q. Of lot five, or six?

A. On both of them,—mostly on the north side.

Q. Is there as much on five as there is on six?

A. No, sir, not quite.

Q. How did you find the corners there?

A. I found the section line and traced it up; found the meandering post and traced it east to the section corner.

Q. Could you find the land-lines?

A. Yes, sir.

Q. Find the stakes?

A. I found the witness-trees and the stakes.

Q. You could find the corners?

A. Yes, sir.

Q. How did you run the lands?

A. I followed from the section corner, north to the quarter post; traced it through, and the witness-trees were standing.

Q. That was 160 rods?

A. Yes, sir.

Q. How did you find the half-way post between the two, and the N. W. corner of six?

A. There is no post there.

Q. How did you find the corner of that lot?

A. I did it by pacing, sir.

Q. How did you find the northwest corner?

A. There is no corner there, sir; I did it by compass and pacing.

Q. There is a corner lot somewhere; it may not be established to a corner. How did you find when you arrived at the N. W. corner of the land?

A. I did it by pacing.

Q. Found no corner established?

A. There is no corner established.

Q. What do you say about the lands,—of it being valuable for pine? What do you think now, about it?

A. There is a fraction right south of it on the next section.

Q. Is it not valuable mostly for water-right, back of lot 5?

A. That small fraction is; yes, sir.

Q. When you were at the office there, who did you say you did your business with?

A. At the State office?

Q. Yes, sir,—when you applied, as you say, for this land?

A. Mr. Robinson.

Q. Wholly with him, was it?

A. Yes, sir.

Q. Was it in the old office or in the new?

A. In the new office.

Q. Did you make any written application?

A. No, sir.

Q. Did you deposit any money?

A. No, sir.

RE-EXAMINATION OF S. C. ALDERMAN.

Re-examined by Mr. Manager Grosvenor:

Question. Why didn't you file a written application and deposit the money?

A. I was told I could not get it without—I hadn't the money to spare $400 down at the time.

Q. What is it?

A. I did not want to spare the money to pay the four dollars an acre.

Q. You began to answer, and you have gone off on to another subject. Why did you not make the application in writing and deposit the money?

A. I was told I could not without making an affidavit.

Q. You could not make the affidavit, as you said before?

A. No, sir.

Q. State whether they demanded more than a quarter down of you, or did they demand the whole sum?

A. They said if I could not make the affidavit, that I would have to pay it all down,—four dollars an acre.

Q. If you did not make an affidavit, you would have to pay it all down?

A. Yes, sir.

Q. And you had not money enough to pay for it at that rate?

A. No, sir. Do you understand that I wish to be corrected upon that land lying east and west?

Q. Yes, sir; I was just going to ask you about that. When you were looking that land out, was you looking for pine lands or for farming lands?

A. I was looking for pine lands.

Q. You said you were a surveyor, I believe, and a land-looker?

A. Yes, sir.

Q. How long have you been engaged in that business?

A. Surveying?

Q. Yes, sir.

A. Something over twenty years.

Q. In Michigan?

A. Yes, sir.

Q. Now, if you desire to make any explanation about your having said north for east—

A. I know there is a confliction in the maps,—between these maps and at Grand Traverse. That is the way I got mixed.

Q. You were thinking of its appearance on the map at Grand Traverse?

A. Yes, sir. I had a map here, on my plat-book, the same as it is there.

Q. How are you now? Is your mind clear about it, that you have seen that land?

A. Yes, sir.

Q. As indicated upon the plat-book here?

A. Yes sir.

Q. And upon your own plat?

A. Yes sir.

Q. What is that land worth?

A. It is worth from ten to fifteen dollars an acre, I think.

Q. For timber?

A. For timber and other purposes.

Q. Is it not that class of lands commonly designated as timbered lands,—as pine lands,—and valuable mostly for its timber?

A. It is valuable for pine.

Q. Among the land and lumber men, is it not known as pine lands; would it not be understood as pine lands?

A. Yes, sir.

RE-CROSS-EXAMINATION OF S. C. ALDERMAN.

Examined by Mr. Shipman:

Question. These plats, you say, that you got from the Traverse office were different from the plat here?

Answer. Yes, sir.

Q. Did it get these sections cornering,—these lots cornering?

A. I think it did. I am not positive. I know the clerk in

the office there at Grand Traverse, and I had considerable talk about it. They were not the same.

Q. The lands that you showed Goddard the minutes of,—were they cornering?

A. No, sir, they were the same as they are on this book, here.

Q. Did you look the lands under your Traverse plats?

A. I think I had a copy of these. I took the minutes of these lands before I got my—I had a small plat, I think I had,—took the minutes of these school lands before I got my plats from Traverse.

Q. You think you did?

A. Yes, sir.

Q. When did you get the minutes of these?

A. Along in October.

Q. When did you get the Traverse plats?

A. About October.

Q. About the same time?

A. Yes, sir.

Q. Where in the world did you get the idea, Mr. Alderman, that these lots were cornering, if you did not get it from actual observation on the lots?

A. Well, when I was on the land, I looked the land as it is represented on this plat. I had a small plat, I think, as it was represented on this plat, and then I had a larger one from Traverse, and I think there is a confliction in the shape of the lake.

Q. Where did you get the idea that the lots cornered, if not from walking over them?

A. I did not have any such idea when I was walking over them at all, because I paced from the section corner to the quarter post.

Q. Well, you did when you were testifying here. Where did you get that idea?

A. I must have got it from the plats,—the Traverse plats.

Q. Do you know how long you had that idea that they were cornering?

A. I think I had the idea when I was at Traverse City.

Q. You speak of the value of this land as worth from $10 to $15 per acre,—will you state whether the lands are selling there for that price?

A. I know there are men that ask that for the lands.

Q. What makes these lots valuable?

A. This pine; and I should think it would be valuable for something else.

Q. What else?

A. I think there will be a large town there some day.

Q. It is a prospective value, then, is it; some railroad going to run up there?

A. Near there.

Q. Is that a pretty handsome lake?

A. Yes, sir.

Q. A nice location for a town?

A. Yes, sir.

Q. You figure, then, the value, some, on what you expect is going to be there in the future?

A. The pine on the land is worth—

Q. I merely ask you if that enters into your estimate of value; whether you take into consideration the probability of there being a town or village located there in the future?

A. I think the land is worth for the pine about $10 an acre.

Q. Is that the pine part of them you mean?

A. Yes, sir; that is the pine on the lands.

Q. State whether, in your opinion, the principal value of the land is for pine.

A. It is, as far as I know yet.

Q. You put the value at from $10 to $15?

A. Yes, sir.

Q. Which?

A. I should think it was worth about $15 an acre,—the land and timber,—figuring it together.

Q. You were interested in these lands, you say, when Mr. Goddard entered them?

A. Yes, sir.

Q. You could not file the affidavit at the office here, that they were not valuable chiefly or principally for timber, as required by the rule?

A. No, sir.

Q. You took an interest in them, didn't you, after Mr. Goddard entered them?

A. There was an agreement between Mr. Goddard and me that he would pay for the lands, and I was to have a half interest in them.

Q. You were willing to accept them?

A. Yes, sir.

RE-EXAMINATION OF S. C. ALDERMAN.

Re-examined by Mr. Manager Grosvenor:

Question. Mr. Godard is a heavy dealer in land,—deals considerable?

A. He deals considerably, I believe.

TESTIMONY OF JOHN C. WATERBURY.

John C. Waterbury, a witness produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Grosvenor:

[Senator Waterbury was examined standing in his place.]

Question. You have heard the testimony of the last witness upon the stand?

Answer. Yes, sir.

Q. Do you know the land to which he refers?

A. I do.

Q. Have you ever been upon the land?

A. Yes, sir.

Q. Can you state what that land is chiefly valuable for?

A. My opinion is, for timber.

Q. Do you own land in the vicinity, or have you?

A. I did. Yes, sir.

CROSS-EXAMINATION OF SENATOR WATERBURY.

Cross-examined by Mr. Shipman:

Question. How many times have you been on the land?

Answer. I was there once, and we camped on that section, on lot 4, the first lot west of that. We were there three or four days, looking land. We were across this piece frequently, going to and from camp, and looked that section up.

Q. Does lot four lay west, or northwest?

A. It lays west.

Q. Straight west?

A. It lays west and reaches up north, past other forties. It lays right west of two forties that lay directly north of 5 and 6, but runs down past five to the lake. They are larger instead of being smaller,—they are larger than the forties.

Q. What are the shores, along there, of the lake? What kind of soil?

A. Sand.

Q. Bluff?

A. No, not on that fraction, if I recollect right; it is low. The formation of the land is something like this: From the shore you go back a little ways and go up over a ridge, and go down from that and there is a low place, and then there is another ridge,—something like waves. The formation of wind in an early day.

Q. Any springs there?

A. I did not see any springs there.

Mr. Manager Grosvenor—Mr. President: I offer to introduce now the official oath of the respondent, a copy of which is here, duly authenticated.

[To counsel for the respondent.]

You do not deny that?

Mr. McGowan—We will admit we swore.

The following is a copy of the paper offered in evidence:

[EXHIBIT H.]

OATH OF OFFICE.

STATE OF MICHIGAN, } ss.
County of Ingham, }

I do solemnly swear that I will support the Constitution of the United States, and the Constitution of this State, and that I will faithfully discharge the duties of the office of Commissioner of the State Land Office of the State of Michigan, according to the best of my ability.

CHAS. A. EDMONDS.

Sworn and subscribed before me, this third day of January, 1871.

DANIEL STRIKER,
Secretary of State.

STATE OF MICHIGAN, } ss.
Office of the Secretary of State, }

I, Daniel Striker, Secretary of State of the State of Michigan, do hereby certify that I have compared the annexed copy of oath of office, with the original, filed in this office January 3, 1871, and that it is a true and correct transcript therefrom, and of the whole of such original.

In testimony whereof, I have hereunto set my hand and affixed the Great Seal of the State of Michigan, at Lansing, this second day of May, in the year of our Lord one thousand eight hundred and seventy-two.

[SEAL.]

G. M. HASTY,
Dep. Secretary of State.

Mr. Manager Grosvenor—I next offer the official oath of William A. Barnard, to show that he is the Deputy, and has taken the oath, and filed it in accordance with the requirements of the statute.

Mr. Shipman—We have no objection, although we do not know what it has to do with the case.

The following is a copy of the paper referred to:

[EXHIBITS II.]

OATH OF OFFICE.

STATE OF MICHIGAN, } ss.
County of Ingham, }

I do solemnly swear that I will support the Constitution of the United States, and the Constitution of this State, and that I will faithfully discharge the duties of the office of Deputy Commissioner of the State Land Office according to the best of my ability.

WM. A. BARNARD.

Sworn and subscribed before me, this first day of June, 1871

HENRY N. LAWRENCE,

Notary Public in and for Branch County.

STATE OF MICHIGAN, } ss.
OFFICE OF THE SECRETARY OF STATE, }

I, Daniel Striker, Secretary of State of the State of Michigan, do hereby certify, that I have compared the annexed copy of the oath of office of Wm. A. Barnard, as Deputy Commissioner of the State Land Office, with the original filed in this office June 1st, 1871, and that it is a true and correct transcript therefrom, and of the whole of such original.

In testimony whereof, I have hereunto set my hand and affixed the Great Seal of the State of Michigan, [SEAL.] at Lansing, this 11th day of May, in the year of our Lord one thousand eight hundred and seventy-two.

G. M. HASTY,

Deputy Secretary of State.

TESTIMONY OF G. W. FREEMAN.

G. W. Freeman, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Huston:

Question. What is your business?

Answer. I am a clerk in the Secretary of State's office.

Q. How long have you been there?

A. About fifteen months.

Q. Have you got the certificate of purchase of Hoyt & Draper, of certain land in Sanilac county?

A. I have. [Produces it.]

Q. State whose handwriting the signature is?

A. The certificate is filled out by Mr. Robinson, of the Land Office.

Q. The signature to the certificate?

A. William A. Barnard, Deputy Commissioner.

Q. Where did you procure that paper?

A. It was sent to our department from the Land Office.

Q. Where did you procure it when you brought it here?

A. From the Secretary of State's Office.

Mr. Manager Huston—Mr. President, I wish to produce this certificate in evidence.

Mr. McGowan—I would like to see it.

[Paper handed to respondent's counsel by the Manager.]

Question. Let me call your attention to the date on the back of it,—the "22d,"—and ask you what that means?

Answer. That signifies the date of the patent.

Q. Will you read the description of the land that is in the certificate?

A. The S. fl. ¼ of S. W. ¼ sec. 6, and the S. E. ¼ of N. W. ¼ sec. 7, 10 N. 12 E.

Q. What is the date of the certificate? When was the certificate issued?

A. Twentieth day of December, 1871.

Q. I will offer this in evidence.

[The following is a copy of the certificate referred to:]

[EXHIBIT JJ.]

No. 9985.

W. A. BARNARD & CO.—CERTIFICATE OF PURCHASE—SWAMP LAND.

In the name of the People of the State of Michigon, I Charles A. Edmonds, Commissioner of the State Land Office, agreeably to the provisions of law, hereby certify, that at a private sale on the 20th day of December, one thousand eight hundred and seventy-one, Herbert H. Hoyt and C. Stuart Draper, of Saginaw county, State of Michigan, for and in consideration of the sum of one hundred fifty-four and 05-100 dollars, purchased the land described as follows, that is to say: the S. fr'l ¼ of S. W. ¼ Sec. 6, and N. E. ¼ of N. W. ¼ of section No. 7, in township No. 10 N. of range No. 12 E., containing 123.24 acres, according to the returns of the Surveyor General, at one and 25-100 dollars per acre.

And I do further certify, That the consideration received therefor is the sum of one hundred fifty-four and 5-100 dollars, to be paid at the office of the State Treasurer: Provided, And this certificate is issued upon the express condition, that said purchaser shall have no claim against the State for drainage, reclamation, or other improvement of said land, but said sale is made subject to drainage and reclamation by the purchaser, in accordance with the Act of Congress granting said land to the State: And I further certify, that upon the presentation of this

[L. S.] certificate, duly signed by the State Treasurer, and countersigned by the Auditor General, as required by law, to the Secretary of State, and surrender of the same, the purchaser therein named, or his assigns, will be entitled to receive a patent for said land, to be executed by the Governor.

Given under my hand, and the Seal of the State Land Office, this 20th day of December, 1871.

WM. A. BARNARD,
Dep. Commissioner.

[The following appears on the back of the certificate:]

$—— STATE TREASURER'S OFFICE,
Lansing, December 21, 1871.

Received the within mentioned payment of——Dollars.

[Countersigned:] ————————*State Treasurer.*

————————*Auditor General.*

Examined and entered.

V. P. COLLIER, *State Treasurer.*

F. M. H.

Mr. Manager Grosvenor—That is all.

Mr. Shipman—We have no questions.

L. S. HUDSON, RECALLED.

Examined by Mr. Manager Grosvenor:

Question. When you were upon the stand, the other day, you did not tell us all about that land transaction you had with Mr. Barnard, did you.

Answer. No, sir.

Q. When did you have another transaction that you did not tell us about?

A. Last spring, I think.

Q. Last spring?

A. A year ago now.

Q. Was it after the first transaction?

A. Yes, sir.

Q. Before the second?

A. Yes, sir.

Q. Did you get any land from him at that time?

A. Yes, sir.

Q. How did you pay him for it?

A. I traded a dog for it.

Q. You traded a dog for it?

A. Yes, sir.

Q. Do you remember where the land was,—the description of it?

A. No, sir, I do not.

Q. Do you own it now?

A. No, sir.

Q. Was the patent taken out to you?

A. Yes, sir.

Q. From the Government?

A. Yes, sir.

Q. Who selected the land, Barnard?

A. I could not tell you.

Q. You got it of him?

A. Yes, sir.

Q. The deed came directly from the State to you?

A. Yes, sir.

Q. You have sold that, have you?

A. Yes, sir.

Mr. Manager Grosvenor—We propose to follow the sale of this land until Mr. Barnard strikes in again.

Mr. McGowan—We reserve the right to object to any questions that are objectionable.

Question—You did not sell the land back to Barnard?

Answer. No, sir.

Q. You traded for some other property?

A. Yes, sir.

Q. Did Barnard get any of that other property?

A. No, sir.

Q. You traded that "dog forty" off for a horse?

A. Yes, sir.

Q. You gave Barnard the horse for the next "eighty?"

A. No, sir.

Q. Wasn't it the same horse?

A. No, sir.

Q. Didn't it grow from that in the same way—just explain?

A. It was a colt that I traded with him after that.

CROSS-EXAMINATION OF L. S. HUDSON.

Cross-examined by Mr. Shipman:

Question. What did you get from Mr. Barnard on this trade?

Answer. Forty acres. I got a patent for it, sir.

Q. Did you get any scrip from him?

A. No, sir.

Q. Did you get no papers at all but the patent you speak of?

A. That is all.

Q. In whose name was the patent?

A. Mine, sir.

Q. Do you know where the State got the pay for this land?

A. I do not.

Q. Do you know whether it came from Mr. Edmund Hall's reserve, or not?

A. No, sir, I do not.

Q. The dog didn't go into the Treasury, did it?

A. I guess not.

Q. Was that swamp land?

A. Yes, sir.

Q. Was that dog a water spaniel?

A. Sir?

Q. What kind of a dog was that?

A. It was a coach dog.

Q. What was the land called worth in this trade?

A. $100.

Q. What was the dog worth?

A. The same price, $100.

Q. State the value of that dog aside from the transaction with Barnard,—whether you had been offered any amount for him?

A. Yes, sir.

Q. State what?

A. $100.

Q. You had been offered $100.

A. Yes, sir.

Q. In money?

A. Yes, sir.

Mr. Shipman—That is all.

M. O. ROBINSON, RECALLED.

Examined by Mr. Manager Huston:

Question. I will call your attention to the application: What is the date? When was it made?

Answer. On or about the 21st of August, 1871.

Q. Will you read the application?

[Witness read as follows:]

STATE OF MICHIGAN, STATE LAND OFFICE, *Lansing*, —— —, *187—*.

"Lester S. Hudson, Ingham county:

S. ½ of S. E. ¼—13—4 N.—13 W.—80 acres."

"Martin Hudson:

W. fr. ½ of N. W. ¼—19—2 N.—15 W.—54 20-100ths acres."

Q. What is that below?

Witness—"W. A. Barnard says make the above up and charge to him,—no proofs ever filed."

Filing on the back: "L. S. Hudson, Aug. 21, '71, 9572 and 9573, for pat."

Question. In whose handwriting is that?

Answer. It is mine.

Q. Have you any recollection now, after reading your own entry there, what Mr. Barnard said to you in regard to making up the patents for that land?

A. I seem to have written down what he said.

Q. Have you no recollection outside of that?

A. No, sir, I have not.

Q. What does he mean by charging to him?

A. Charged to his scrip account.

Q. Charged to his scrip account, or charged to the scrip account of W. A. Barnard & Co?

A. W. A. Barnard & Co., I suppose.

Q. Who is Martin Hudson?

A. I believe he is the proprietor of the Lansing House.

Q. Did you understand that that was the same land that Mr. Barnard was selling to Martin Hudson?

A. I did not know anything about it.

Q. Upon looking at that paper, will you tell me to whom the patent was issued upon the description opposite to Martin Hudson's name.

A. I am pretty well convinced that the certificate was issued to the parties designated.

Q. To whom?

A. Lester S. Hudson and Martin Hudson.

Q. One description was either a certificate or a patent issued to Martin Hudson?

A. I see I have marked the number of the certificates on the back of the correspondence here, "for patent."

Q. There are two certificates, then.

A. Yes, sir; two purchases.

Q. Will you state whether or not you are interested in the purchase of any land?

A. I was not.

Q. Have you been interested in selling minutes of land to parties?

A. I have sold some. Yes, sir.

Q. Any since the first of January, 1871?

A. Yes, sir.

Q. What amount of minutes have you sold?

A. I do not remember how many. I have sold one or two little lots.

Q. Did you not sell one lot of over 900 acres to one party?

A. I think I did,—960 acres and some fractions.

Q. Have you not sold other lots?

A. I think I have.

Q. How much did you make on the 960 acres for selling?

A. I purchased them for $60, the batch, and sold them for $480.

Q. How much have you made upon the other minutes that

you have sold during the year 1871 and 1872 up to the present time?

A. I could not say.

Q. Can you state the amount you have received for any other lot except the one you have named?

A. I could not; no sir.

Q. How frequently have you sold minutes;

A. Very seldom, I think.

Q. How much did Langdon Hubbard of Huron county pay you for services?

A. I do not know whether it was Langdon Hubbard or not. One of the Hubbards gave me $50.

Q. What was it for,—looking up land and entering them in the office?

A. I do not know what it was for.

Q. Do you remember the fact that he gave you $50?

A. Yes, sir.

Q. How much do David Preston & Co. pay you a year?

A. They do not pay me anything.

Q. I understood you to testify before the investigating committee that Preston & Co. paid you a certain amount a year for looking after their matters,—keeping their account.

A. If I remember rightly I testified that it was paid to the Commissioner, or sent to the Commissioner, and he gave it to me.

Q. Then it is paid to Mr. Edmonds, and he gives it to you?

A. He has done so; yes, sir.

Q. What is that for?

A. For rendering him a monthly statement of his account.

Q. Is there a book in the office, where you keep the private accounts of these large dealers?

A. Yes, sir, some two or three of them.

Q. How many are there for whom you keep accounts in that book?

A. Some five or six, I think.

Q. Mr. Edmonds is aware of that book being in the office, is he not?

A. I presume he is.

Q. I don't know as I asked you the amount that Preston pays.

A. Fifty dollars a year.

Q. What amount do any of the others pay to the Commissioner?

A. Not anything, that I am aware of.

Q. Do you know whether Edmund Hall pays anything?

A. Not that I know of.

Q. What other parties are there that pay you money for services, that you have not named?

A. I do not think of any names, now.

Q. Cannot you think of any one else except Hubbard or Preston?

A. I think Mr. Medbury gave me something once.

Q. What did Mr. Medbury give you?

A. I think he gave me $50.

Q. Cannot you think of somebody else during the last year and a half, that has paid you for services?

A. I cannot.

Q. You cannot think of any other person?

A. No.

Q. Do you have any interest in Mr. Hewitt's reservation?

A. I have none, sir.

Q. Does he pay you anything for your services?

A. No, sir.

Q. Do you expect he will pay you for your services in reserving lands for him?

A. No, sir.

Q. Have you had lands reserved for yourself, or, that you were interested in, upon Hewitt's scrip?

A. I never have.

Q. Or upon the Bathay order?

A. I never have.

Q. Who composes the firm of William Barnard & Co.?

A. I see by yesterday's journal that Edmonds claims to be the Co.

Q. Have they got a book in the office in which their Company account is kept?

A. Yes, sir.

Q. Who keeps that book?

A. I do.

Q. What is entered in the book?

A. Debit and credit of scrip.

Q. Scrip account?

A. Yes, sir.

Q. What do you mean by the scrip account—just explain?

A. I mean the scrip account; that is the most I can say about it.

Q. How do they manage that scrip account; how is the business conducted?

A. Buying and selling.

Q. Who does the buying?

A. I guess Mr. Barnard, generally.

Q. Do you ever buy any for them?

A. I think I have, some.

Q. Do you know of Edmonds' buying any?

A. Not that I know of.

Q. Who does the selling of the scrip?

A. Just as it happens.

Q. What do you mean by "Just as it happens?"

A. Whoever happens to be waiting on the party wishing to purchase.

Q. Who do you mean by that,—Edmonds, Barnard, or yourself?

A. Either one of us.

Q. Any of the other clerks?

A. They have received money for scrip, I believe.

Q. Do you allow all the clerks of the office—any clerks in the office—to receive money?

A. I do not know of any rule against it.

Q. How many clerks are there in there?

A. Fifteen or sixteen, I think.

Q. Is it permitted for any clerk in that office, to receive appplications, and receive money by mail, or upon personal application for lands?

A. By personal applications, it is not very common for more than either of two or three of us.

Q. Is it allowable for the clerks to receive application by mail for lands?

A. I think there is a rule against it; though there are a great many sent, for all that.

Q. That is frequently done with outside parties,—instead of corresponding with the Commissioner, or with the Deputy Commissioner, correspond directly with some of the clerks?

A. Sometimes do.

Q. Do you not frequently get letters of that kind, directed to you, with regard to purchasing lands?

A. I think not, with regard to purchasing lands.

The Presiding Officer—The Senate, sitting as a Court of Impeachment, will take a recess until two o'clock this afternoon.

—

Lansing, Saturday, P. M., May 11, 1872.

The Senate met and was called to order by the President *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

Senator Wheeler—I ask leave of absence until Wednesday morning for Senator Jenks; he has gone to take his wife home, who is now sick.

Leave of absence was granted.

The Presiding Officer—The Senator from the First [Mr. Ro-

meyn] sends up the following motion for an order. The Secretary will read the same.

The Secretary read as follows:

"*Ordered*, That in place of the usual adjournment at four o'clock, the Senate at that hour take a recess until seven o'clock P. M., for the purpose of proceeding with the trial pending."

The question being put, the motion did not prevail.

The Presiding Officer—The Honorable Managers will proceed with the testimony in support of the articles of impeachment.

TESTIMONY OF M. O. ROBINSON, RESUMED.

By Mr. Manager Huston:

Question. You were stating, at the time the Court adjourned, in regard to the custom of the clerks to correspond with customers in regard to the sale of lands. Will you state now, whether such is the custom in the office, for different clerks to correspond with the parties who desire to purchase State lands?

Answer. I can answer for myself. To some extent, it is.

Q. Has that been so during Mr. Edmonds' administration?

A. Yes, sir.

Q. Mr. Edmonds has knowledge of that fact, has he not?

A. I don't know whether he has or not.

Q. Don't you know?

A. I don't know.

Q. Do you not know, as far as you were corresponding with parties in the office, in your own name, whether Mr. Edmonds had knowledge?

A. I do not.

Q. What did you do with your letters you received from customers?

A. Filed them in the office.

Q. Are they bound with the other letters?

A. I presume they are.

Q. They were kept in the files?

A. Yes, sir.

Q. Is that the fact in regard to all the clerks that do that kind of business, that the letters are filed with the other letters in the office?

A. I do not know as to that. I think it is, to some extent. So far as comes under my observation, it is.

Q. Is it a fact that all the applications that are received are filed.

A. Supposed to be.

Q. Do you know whether that is so, or not?

A. I cannot say, positively, about that.

Q. Do you not know that frequently there are letters and applications for land, that are not filed in the usual place for filing applications and letters?

A. I do not.

Q. Now, in regard to these boxes. Are the applications of these parties, that have boxes in the office, bound with the others,—applications that you usually have bound at the close of the year?

A. They are not.

Q. Then the application of those large dealers, who had boxes in the office, are not bound with the other communications received on that subject?

A. It is owing to the nature of the application.

Q. The applications received during the year 1871, that were kept in the one hundred boxes as has been testified to,—have they been bound?

A. I think not.

Q. They are not contained in any of these books?

A. I think not.

Q. Do you know anything about any applications that are left in those boxes there, being taken out?

A. I do not.

Q. Do you know anything about taking any out of Mr. Hewitt's boxes, night before last?

A. I do not.

Q. Have you no knowledge of that kind?

A. No, sir.

Q. Were you not in there examining with another party those books, night before last,—Mr. Hewitt's applications?

A. I was in there with you, showing you a box.

Q. After I went away?

A. No, sir.

Q. And didn't you select them out with another party that was in there?

A. No, sir.

Q. How many of the clerks are there in the office that are in the habit of corresponding directly with parties that desire to purchase lands?

A. I could not say.

Q. You cannot say whether it is general with all the clerks, or not?

A. I could not say.

Q. Do you know whether Mr. Barnard is in the habit of corresponding with outside parties that desire to purchase lands, in his name,—not as Deputy Commissioner?

A. I don't know anything about it.

Q. You cannot say about that?

A. No, sir.

Q. How long has he been Deputy Commissioner?

A. Since the first of June, 1871.

Q. What was the rule in the office in regard to proving up claims, or, rather, filing proofs, when application is made in regard to purchasing licensed lands? What was the rule a year ago this spring?

A. In regard to the sale of lands?

Q. The rule in regard to proofs. Suppose I apply to buy a piece of land that has been licensed: what proof would have been required a year ago?

A. A proof of non-settlement, or abandonment, as the case would require.

Q. Was that an universal rule?

A. I think it was.

Q. Has that rule been changed since?

A. Yes, sir.

Q. When was it,—in October?

A. I cannot say positively when it was. Last year sometime.

Q. It was last fall?

A. Sometime last year; I cannot say whether fall or summer.

Q. Was it since Barnard has been Deputy?

A. I cannot say as to that, whether it was or not.

Q. What is the change you referred to,—that of not requi ring proofs where there had been no proof of settlement?

A. To require proof where no proof had been filed.

Q. The three months' proof is proof of settlement or occupancy?

A. One of them, sir.

Q. Now, do you not know that, almost immediately after Edmonds decided that where there was no proof of settlement and occupancy, that it was not necessary to have any proof of non-settlement in order that a party might purchase those lands, that Mr. Cornell bought some of those lands?

A. I do not remember about that.

Q. What is your best recollection about it?

A. Nothing; I have no recollection about it.

Q. Is not it your best recollection that Van Dunham and Cornell entered into this speculation in buying swamp lands almost immediately after Edmonds changed the rule and decided that in that kind of a case no proof was necessary?

A. It is not my recollection that they did.

Q. What is your recollection?

A. I have no recollection about it.

Q. You are chief clerk in the office?

A. I am so called.

Q. And have a pretty general knowledge of what is going on?

A. In my department.

Q. You remember the occasion of the rule being changed?

A. I do.

Q. But you cannot fix the time?

A. Not positively.

Q. You remember the occasion of the first purchase being made, after the rule was changed?

A. I cannot remember the first purchase. I remember some purchases since that was changed.

Q. I would like to have you stretch your recollection all you can, and fix the time that rule was changed,—as near as you can?

A. I fixed it before as near as I could; it was sometime last summer or fall, I could not say which.

Q. Do you remember when I called at the office in February last, with regard to the licensed land that was sold to Cornell, in Tuscola county?

A. I think I remember seeing you there.

Q. Do you not remember of having a talk with me at that time?

A. No, sir.

Q. Do you not remember that you said in the conversation that was held there, in the presence of Mr. Edmonds, and in the presence of Mr. Barnard, that you would return the proofs that were sent in by Mr. Woolover, to Mr. Wilder, the county clerk of Tuscola county?

A. I do not remember any such thing.

Q. You do not remember anything about it?

A. I remember that I did not return it.

Q. Do you not remember that you said then that you would return them?

A. I do not remember any such conversation.

Q. Do you not remember the fact that after I returned home, I wrote you to the office, and notified Mr. Edmonds that Wilder said those papers were not returned, as you said?

A. I remember now Barnard calling my attention to the fact, and wished I would look and see if I could find that five-year proof.

Q. Did you not look for it?

A. I did.

Q. Did not Edmonds pretend to look for it?

A. I do not know as to that.

Q. Was he not there with us at that time?

A. I do not remember that he was.

Q. Did not Barnard look?

A. I think I did.

Q. Did you not all say that this proof had been returned?

A. I do not know what we all said.

Q. Did I not say to you, and say to Barnard, and Edmonds, that the deed, as it appeared from the records there, was issued to Cornell on the 27th day of October; the letter notifying Wilder that Woolover's land was sold was dated the first day of November, and I wanted to find those first proofs for the purpose of determining the question whether the proofs were received before the patent was issued?

A. I remember your desiring to see those affidavits,—those proofs; now I remember it.

Q. And you all looked and said you could not find them?

A. I know I looked.

Q. Did you not afterwards find it in the office?

A. They were found in the office.

Q. Where were they?

A. I think they were in the safe.

Q. What was the reason you could not find them that day?

A. The fact of their being out of their place,—in the safe.

Q. You said the other day that it was the rule, when a paper was received in the office, to stamp it with the official seal the day it was received?

A. That has been the rule since the stamp was procured.

Q. You had the stamp last October?

A. I think so.

Q. Why did you not stamp those proofs when they were received?

A. It is not my business.

Q. Do you know why Barnard did not stamp them?

A. I do not.

Q. After I had this conversation with you and you could not find those papers, do you remember my saying to Edmonds that Woolover was a poor man, and I was desirous of compromising the matter in some way if I could, for him,—do you remember anything of that kind?

A. I do not.

Q. Do you remember the fact of Edmonds taking me to his back office?

A. I do not.

Q. You do not remember my going there at all?

A. I do not remember distinctly the fact.

Q. What is your best recollection?

A. I presume you may have gone there,—you know it.

Q. Do you not remember that I went there, and he returned and took one of the clerks from the office, and brought him in and introduced him?

A. I do not.

Q. No recollection with regard to that?

A. No.

Q. Do not remember that he took Van Dunham into the back room?

A. I did not know that he did it at all.

Q. You were not there at that time?

A. I helped look for the affidavit.

Q. Is it a rule in the office to send those kind of papers back,—those five-year proofs?

A. It used to be the rule.

Q. Why did you say you sent those back that day?

A. I presumed that, in accordance with the previous usage.

Q. You stated, positively, you returned them,—you knew they were not in the office?

A. I could not swear that I said positively.

Q. What would you swear, with regard to that?

A. I would swear that we might have said they were returned.

Q. Do you not know that you said you had sent them back?

A. No, sir.

Q. What did you say on the subject?

A. I remember saying I could not find them.

Q. What did *you* say about sending them back to Wilder?

A. I had very little to say in the matter.

Q. What did you say on that subject?

A. I told Barnard I could not find them.

Q. What did you say about sending them back?

A. I told Barnard I presumed he had sent them back.

Q. That he or you?

A. That he did, I presume.

Q. Did you not say, "I have sent them back?"

A. I would not say that I did.

Q. Would you say you did not?

A. I will not.

Q. How many clerks were there employed in the office at that time?

A. About the same number as now.

Q. How many is that?

A. I think some 15 or 16.

Q. Will you look at that book and tell me what is the average number of applications that have the date stamped upon them when they are received. Do you not find so far as you have gone, that there are as many not stamped as that are?

A. I would say not.

Q. Was not there a large number of those you looked over unstamped?

A. There was.

Q. You stated this forenoon that you kept the scrip account of Wm. A. Barnard & Co.?

A. Yes, sir.

Q. Have you got that book here?

A. I have not.

Q. Is this it?

A. No, sir. I don't see it here.

Q. Have you examined the book so that you can state the amount of profits that are made from the transaction in scrip? Let me call your attention to a statement, I think made by yourself. What date does that account commence?

A. June 1, 1871.

Q. What time does it end?

A. March 23, 1872.

Q. What do you find the profits to be?

A. $8,384.14.

Q. Is that statement correct?

A. Very nearly. It may vary a little.

Q. In what respect do you want to correct it, if it is incorrect?

A. I discovered, after making this, that there had been a $190 check received in payment for $200 of scrip, which check had been sent forward for collection at the time of making this up, but the scrip had not been charged to this account, hence the amount of scrip on hand should appear here $200 less than it does.

Q. That would make the profits more?

A. A trifle.

Q. When land is entered with scrip, what do you deliver to the State Treasurer?

A. Tell him how to charge it.

Q. When lands are entered upon the scrip of Wm. A. Barnard & Co., how is the record kept in the Treasurer's Office?

A. Charged to their account.

Q. Charged to the account of Wm. A. Barnard & Co.?

A. It is.

Q. What means have they of knowing whether Wm. Barnard & Co. have credits in the Treasurer's office?

A. They have a book that shows the balance.

Q. There is a scrip account kept in the Treasurer's office?

A. There is.

Q. When you give credit on your book for a thousand dollars, for instance, to any party for scrip, does he receive the same credit in the Treasurer's office?

A. He does.

Q. Who keeps this scrip account?

A. I keep it.

Q. Is that a part of your duty as clerk?

A. It is.

Q. Connected with the State business?

A. It is.

Q. This is a private account of Wm. A. Barnard & Co.?

A. It is a personal account.

Q. The State has no interest in it?

A. Interested to get the scrip used up.

Q. That is your idea with regard to their interest?

A. Yes, sir.

Q. I understood you to say this forenoon that you were not agent for any party in buying and selling lands,—that you were not interested in the buying of lands?

A. I am not interested.

Q. Are you interested as agent?

A. I am not.

Q. Either directly or indirectly as agent with any party?

A. No.

Q. I notice in this application for Martin Hudson and one of the other Hudsons, that there is minuted on the application in your handwriting, "No proofs filed." Was that licensed land, or what do you mean by that?

A. I concluded it was licensed land.

Q. What do you mean by no proofs filed?

A. No proofs of settlement and abandonment, or three months' proof.

Q. Then, at Barnard's request, that land was conveyed, one

piece to Lester Hudson and the other to Martin Hudson, of that licensed land without proofs?

A. It would seem so by the minutes.

Q. Is that your recollection?

A. Without seeing the record, it would be my recollection.

Q. Do you remember how long ago that was?

A. I think the letter was dated in August, 1871; or, at least, filed in 1871.

Q. Why did you make that minute there, "No proof filed," if it had been the rule to require proofs,—if you did not understand that it was the rule that proofs should be filed?

A. It was a custom I have, of making minutes of everything I have been directed to do.

Q. Did n't you make those minutes to draw Barnard's attention to the fact that the proofs had not been filed?

A. No, sir; I made no minute as a matter of record.

CROSS-EXAMINATION OF M. O. ROBINSON.

Cross-examined by Mr. McGowan:

Question—You stated you had sold some minutes while you were in the office?

Answer—Yes, sir.

Q. What are minutes?

A. They are descriptions of land, describing the quality of soil, the timber that is on it, the kind of timber, and the amount of timber.

Q. Who makes minutes?

A. Land-lookers generally do it.

Q. Where do they get their material to make the minutes?

A. From vacant plats and examination.

Q. Where do they get their information, to estimate the amount of timber?

A. From examination.

A. Personal examination of the land?

A. Yes, sir.

Q. And determine the soil?

A. Yes, sir.

Q. Where were those minutes made; in the office, or outside?

A. Outside.

Q. Are those estimates ever made by parties in the office,—attached to the office?

A. They are not.

Q. Where did you get the minutes that you sold?

A. I got them of Mr. Crapo.

Q. What Mr. Crapo?

A. David Crapo.

Q. Will you state something of the description of those minutes?

A. A description of those lands, giving the estimate of timber on the land, the kind of soil, and the general character of the land.

Q. How did you come to get those minutes of those lands? Did you solicit them?

A. I did not.

Q. How did you get them into your hands?

A. He left them with me; he wanted I should sell them.

Q. Left them with you to sell?

A. Yes, sir.

Q. When was that?

A. He left them on Memorial Day last year, whatever day that was.

Mr. McGowan—The thirtieth day of May.

Question. You have stated that a man by the name of Hubbard gave you fifty dollars at one time; state when that was.

Answer. He had been corresponding with me for some time,—a year or two. He had kept up a correspondence with me for some time. I would answer his correspondence. He came here some time ago. During his business, he threw over a little roll of bills on my desk. He said: "There, take those and put them in your pocket." I told him I did not wish them; there was no charge for anything I had done. He said: "Good day," and that is the last I have seen of him.

Q. Did you know how much there was in the package?

A. I did not at the time he threw them over.

Q. State whether you had an arrangement with Hubbard, previously, that he should pay you anything?

A. No, sir.

Q. Had you ever had any understanding about paying anying before that?

A. No, sir.

Q. What did you say about that labor being public or private labor, you had performed?

A. I told him it was information or labor he would be entitled to from the office without charge.

Q. You have spoken about Mr. Hubbard's writing to you. What is the fact about outside parties writing to the clerks?

A. It is very frequently done.

Q. Take your own correspondence.—let me ask you if you have correspondence with other parties outside, about official matters?

A. I generally answer the letters they write to me.

Q. Have you solicited their correspondence?

A. No, sir.

Q. How did he come to write to you?

A. I cannot say.

Q. What parties are they that generally write you?

A. Friends and acquaintances.

Q. You say when they write in regard to official matters their letters are filed?

A. Yes, sir.

Q. You have spoken of $50 received through the Commissioner from David Preston & Co. Will you explain in regard to that?

A. How it comes?

Q. Yes, sir.

A. In 1867, I think, Mr. Preston was out here,—he or his book-keeper,—and he made an arrangement with the then

Deputy, if he would render him a monthly statement of his business of his account, he would give him $50 a year.

Q. What is this monthly statement?

A. A statement of their transactions, that have been paid by the office and received.

Q. For the month?

A. Yes, sir.

Q. What is the further history of that bargain?

A. It was continued right along.

Q. They have paid $50 a year ever since?

A. I think they have.

Q. Since 1867?

A. Yes, sir.

Q. Who took the money the first year?

A. Mr. Porter did, I think.

Q. Who made up the statement?

A. I did.

Q. Has that been your business ever since 1867, to make that statement?

A. Yes, sir; ever since I was in the office.

Q. What time or times have you occupied in making that statement for Preston & Co.?

A. Usually in the office, after the office is closed.

Q. Now, since Edmonds' administration, do you know what has become of the $50?

A. I have got it.

Q. Paid to you?

A. Yes, sir.

Q. How is the $50 paid?

A. He usually sends a check for the payment of the current year's statement.

Q. A check, drawn in whose favor?

A. Those two that I have received have been to the order of Charles A. Edmonds, personally.

Q. You spoke, before dinner, of a payment of $50 to you,

by a man by the name of Medbury. State how that came to be,—how the circumstances were.

A. Last June Messrs. Medbury & Mills had a large contract which had been completed.

Q. How many acres?

A. Some 80,000 acres reserved on the books, for which he was entitled to patents. He came there in a great hurry, to get the patents for those lands. I was otherwise employed. I didn't see to it. I came back to do my other work. I think I got the Commissioner to set some other clerk at it, to help me. Mr. Medbury thought, probably, I could do it as well, or better than any of them, and he requested me to go to work and do this work right straight along, and I did so. I worked mornings, noons, and nights, and all day.

Q. Out of office hours?

A. Out of office hours.

Q. About how long?

A. He got them made into certificates, getting the patents issued; he came out and received the patents in person, and carried them home and checked them all over, and found they were correct, and sat down and inclosed a check for $50 to me, to my order.

Q. Was there any arrangement between you and Mr. Medbury that you should receive anything, before he went away?

A. There was not.

Q At any time previous to you receiving the check?

A. No, sir.

Q. Had you any intimation that he was going to send you money?

A. There was not.

Q. At any time previous to your receiving the check, how is it. Had you any intimation that he was going to send you the money?

A. I had not.

Q. Did he write anything, when he sent the check, inclosed in the letter?

A. I think he told me I had earned that over and above my salary.

Q. Do you know why he was in a hurry about this 80,000 acres? What was said to you about that, if anything?

A. He told me he had very nearly consummated in New York for the entire list, and he was very anxious to get them immediately, or as soon as possible.

Q. How many days were you occupied at that business at that time?

A. I could not say, positive, about the days; it was some time, because I had to check the lands over, I think, three times. In fact, I first took the books, and made a list of all these reservations, from the books, paid no attention to his lists filed, but everything that was marked to him on their contracts, I drew into a list, arranged the list in town, range, and sectional order, made them into certificates by counties. The patents were issued by counties.

Q. Can you give some estimate of the time consumed?

A. I should think it was three or four weeks. I would not say positive.

Q. Three or four weeks' time occupied on that?

A. I should say it was.

Q. And during all this time did you work out of office hours?

A. I did.

Q. Every day?

A. I think pretty much every day.

Q. There has been something said here about private accounts kept with these scrip dealers. Will you explain about that matter, if there is anything further to be explained?

A. Well, it is not a private account, they are personal accounts.

Q. Are they kept upon the books of the office,—these personal accounts?

A. They are.

Q. Well, sir, are they public or private accounts?

A. They are public—appear to be.

Q. State what those accounts are made up of?

A. I do not quite understand what you wish to get at.

Q. Out of what are those accounts made,—these scrip accounts that you keep. For instance, take David Preston & Co.; what constitute the items of that account?

A. They are constituted on one side, the credit side, the amount which he purchases and sends orders to the office; on the other side they consist of the payment of his checks or orders; the balance—the difference between the debit and credit side—shows the amount on hand that he has.

Q. One side shows the amount of credit that he has from the State?

A. From parties of whom he purchases.

Q. Well, it would be a credit from the State, would it not, then, on the contract?

A. Yes, sir; on the contract.

Q. The State owes him so much land on these credits?

A. They do.

Q. And when he purchases land he sends an order for the amount, and that is charged up to him on the other side of the book?

A. If he purchases land, it is.

Q. Now, sir, is it necessary, I ask you again, to the conduct of the office,—the business of the office,—that these accounts be kept with these various parties?

A. It is a matter of convenience with these personal accounts, being large dealers; and we, as I term it, "pool the account," —bring it together.

Q. A convenience to who,—the parties themselves, or to the office?

A. To the office.

Q. Are those accounts kept at the solicitation of the individual parties?

A. I think not altogether.

Q. Are they not, otherwise, a necessity in your office?

A. They are.

Q. Referring back to the minutes which you obtained of Crapo and sold, state whether you had any interest in the lands which were described in these minutes.

A. I had none.

Q. Whether you ever procured any interest in them.

A. I did not.

Q. Whether you incumbered the lands, or held them in any way.

A. I did not.

Q. How long did you keep these minutes before you sold them?

A. I kept them from the 30th of May until Mr. Medbury was out making up his patents, the latter part of June.

Q. With regard to applications for school lands, whether it is an invariable rule to require of the applicant an affidavit concerning the quality of the land, as to whether it is timber land or farming land?

A. Whether it is an imperative order?

Q. Whether it is an invariable rule to require an affidavit of the applicant as to the land being chiefly valuable for timber and so forth?

A. It is not an invariable rule; no, sir.

Q. What proportion of the entries are made without this affidavit, would you think?

A. There is quite a proportion. I could not say.

Q. An eighth, or a quarter, or a third?

A. An eighth or a quarter,—somewhere along there.

Q. Well, how much?

A. There is quite a proportion; an eighth or a quarter, I should say.

Q. Will you state what you understand to be the rule of the office with reference to that matter?

A. It is a rule of the office that the office must be satisfied

that they are not pine lands in some shape before they are sold on quarter payment.

Q. In these cases where an affidavit is not required, and has not been required, how has the office obtained this information that they were not pine lands,—not chiefly valuable for timber?

A. They can obtain the information from field-notes, or they can conclude it from the lands having been entered all around it, and these identical descriptions left. When these lands have been entered by pine-land men, most all of whom we know, it is fair to suppose that the balance are not pine lands.

Q. Does this information ever come to the office from these land-lookers themselves, when they are entering other lands, with regard to the quality of the timber and the amount of timber on the lands,—ever come to your knowledge or Barnard's or Edmonds', from these land-lookers themselves when they come there to enter other lands. Do you ever find out from them whether this is pine land or not, as you call it?

A. No, not particularly. Frequently, in purchasing a piece of land, after they have got their deed, they say there is 600,000 on that "forty," or 300,000.

Q. Isn't it frequently the case that reference is made to lands surrounding the lands which they have purchased; and they are asked whether they are pine lands or not?

A. I presume they are.

Q. Do you know whether there is any information reaches the office in that way with reference to these lands, at any time?

A. I should say there was.

Q. Now, Mr. Robinson, in making application for the lands at the office, has it been the invariable rule to require written applications?

A. It has for some time.

Q. Since when has that been the rule?

A. I think it has been a positive rule since we moved into the new office.

Q. How was it previous to that?

A. Act our pleasure about that.

Q. Were there entries made upon verbal applications?

A. Yes, sir.

Q. What proportion of the entries were made previous to that time on verbal applications?

A. Well, sir, there were pretty nearly all of them where they were personal applications made on verbal orders.

Q. At whose direction was that rule changed?

A. Mr. Edmonds I think, or by his Deputy, I do not know which.

Q. Then, if I understand you, a large proportion of the applications made, previous to moving into the new office, were simply verbal?

A. Yes, sir.

Q. You will find no written statement with regard to it?

A. No, sir.

Q. In these verbal applications for lands, previous to your moving into the new office, did you ever, at the direction of the Deputy, make any minute with reference to them?

A. I do not quite understand your question.

Q. Take the case in hand, of the Hudsons. I see that that application, or whatever the record shows there, is simply a minute of yours.

A. Yes, sir.

Q. Now, I want you to state whether that was a custom of yours, or not, to make a minute of that kind at the direction of the Deputy, or whether that is an exceptional case.

A. It is my custom.

Q. Then was it the custom where a verbal application was made, to make some such minute?

A. Yes, sir.

Q. What became of that minute, usually?

A. I sometimes filed it and sometimes threw it into the waste-paper box.

Q. This was one that got on the files?

A. Yes, sir.

Q. And the minute at the bottom of that application where you speak of proofs being filed,—do you say that you refer to the three months' proof there?

A. I should suppose I did, from the minute.

Q. There were no three months' proofs filed.

A. I should say not, from the minute.

Q. And you also state that you think the minute refers to the proof of abandonment,—that there were no proofs of abandonment filed?

A. Yes, sir; or non-settlement.

Q. I think that you made reference to a rule of the office to prevent clerks acting as agents. Is there such a rule?

A. Yes, sir; there are printed rules on that subject.

Q. Who issued those rules?

A. They were signed by Commissioner Edmonds.

Q. Is there more than one rule for the conduct of clerks in the office?

A. Yes, sir; there is a series of them.

Q. And this one rule with reference to agency is one of that series?

A. Yes, sir.

Q. When were those rules issued?

A. I think along in June or July; it may have been earlier.

Q. Of last year?

A. Yes, sir; some of them I know were made earlier, verbally.

Q. Referring back again to the Hudson lands, where the application is simply in the form of a minute of yours,—if I recollect, you said that was licensed land?

A. I conclude it was.

Q. Do you know when it was licensed?

A. I do not.

Q. Had that land been reserved at any time?

A. I could not say whether it had or not.

Q. You do not know the fact with regard to it?

A. No, sir.

Q. When letters are sent containing an application for lands, do they ever contain any other matters in the same letter?

A. They do.

Q. Where the letter is a mixed letter, referring to an application and other matters, are they filed with the applications?

A. I do not always file them when they come to me personally.

Q. You were asked with regard to taking any applications from the boxes there; whether you took any applications from Mr. Hewitt's box night before last?

A. I did not.

Q. Do you know of anybody taking any applications from Mr. Hewitt's box night before last?

A. I do not.

Q. Or any other time?

A. I do not.

Q. Do you remember the occasion of changing that rule of the former Commissioner, requiring proof of abandonmont or non-settlement in, or that these licensed lands might be sold. Do you remember the occasion of changing that rule?

A. I do; yes, sir.

Q. When was it changed?

A. As I said on the direct examination, I know it was last summer or fall,—what month I cannot say.

Q. Will you give the occasion?

A. I could not.

Q. Whose lands were in question, or what lands,—do you know?

A. I could not tell.

Q. Mr. Robinson, do a good many people come to your office to do business?

A. They do.

Q. About how many would come there each day, probably, on an average?

A. Oh, there may be a number,—average two or three.

Q. Two or three people come there a day?

A. Probably, take the year around, it will average more than that.

Q. What do you mean by that,—only two or three people who come there to do business with the office?

A. I mean that there will be an average of two or three—probably more—during the year, of parties come in to do business with the office.

Q. Is it an infrequent thing for parties, coming there to do business with the office, to go into the back office?

A. No, sir.

Q. Do not people come there, of all grades and stations in life, to do business?

Q. They do.

Q. Do you know every man that comes and goes into the back office?

A. I do not.

Q. Do not men frequently go into the back office?

A. Yes, sir.

Q. Would your business in the office be such, that you would necessarily notice men when they went into the back office?

A. I would not.

Q. Where is your place of work?

A. I am near the front end of the office,—the last end.

Q. If they had passed in that little alley, and passed back of you, would you see them without turning, if they went into the back office?

A. I would not.

Q. You have spoken of a certain kind of proof being sent back to parties. What kind of proofs were those?

A. Proofs with regard to licensed lands.

Q. When are they sent back to parties?

A. When occasion requires.

Q. What would they be sent back for?

A. They are frequently sent back because they are imperfect.

Q. For any other reason?

A. We usually sent them back when the lands had been sold.

Q. I think you spoke of five-year proofs. What are they?

A. They are the proof or affidavit, substantiated by a witness's affidavit, that the licensee has lived on the land for the last five years past,—giving date when he settled, describing improvements, the drainage,—all to be made under oath.

Q. With reference to stamping the date of papers, or the back of papers, when received,—is it a fact that many of these applications are simply handed in there to the office?

A. Yes, sir.

Q. Isn't it a fact that many of them are handed to you as chief clerk, across the counter there.

A. They are.

Q. Are these applications that are made up there in the office by a waiting clerk or others, or passed through to the desk—are they stamped?

A. Sometimes are and sometimes not.

Q. Is this stamping the date of the application upon the application necessary to its validity in any way.

A. No, sir.

Mr. Manager Cochrane:

You needn't ask that.

By Mr. McGowan:

Question. What is it made for?

Answer. It is a matter of record.

Q. Is there any other way of ascertaining the date of the application, or of its filing, aside from the stamp on the back of it.

A. There is none, beside the application as written up in the office. Those we can generally tell.

Q. If the application is rejected and not stamped upon the

back, then there would be no way of tracing the date when it was received.

A. There would not.

Q. Is there any difference between the account which you keep with Preston, or Mr. Hewitt, or Mr. Smith, or any parties dealing in scrip, and the account which you keep with Wm. A. Barnard & Co?

A. There is none, only that Preston's account is balanced at the end of every month.

Q. You spoke of the Treasurer keeping a similar book?

A. He does.

Q. A similar book to what book?

A. Personal accounts; in fact, all the accounts of scrip that were kept, except where orders are transferred on the warrant-book, as we call them,—which transfers the Treasurer knows nothing of.

Mr. Manager Cochrane:

Question. As I understand your explanation to counsel for the respondent, these stamps upon the back of the letter are put on either at your own discretion or discretion of different parties?

Answer. It is the business of the party opening the correspondence to stamp them.

Q. A good many of these are not stamped, as a matter of fact?

A. Yes, sir.

Q. Why are they not stamped?

A. A simple omission.

Q. Omissions are frequent, are they,—quite frequent, from your examination?

A. They are quite frequent in my own case.

Q. With regard to letters containing application, and which also contain private matters,—you said those, sometimes, are not filed?

A. Yes, sir.

Q. You received such letters?

A. Frequently.

Q. Do you know whether the other clerks do, or not?

A. I do not.

Q. Then you exercise your own discretion with regard to filing applications?

A. I do.

Q. What records are there in the office to show when the applications are made?

A. I keep a regular file of my personal records.

Q. What official record is there?

A. There is none.

Q. You do not claim that, as a matter of law, you are bound to expose your personal correspondence?

A. I do not know what I am bound to expose. I am not a lawyer nor the son of a lawyer.

Q. Then this filing of letters containing private communications is also a matter of discretion with you?

A. I have used my own discretion.

Q. Is it the rule of the office that all applications shall be filed?

A. I have never heard of such a rule,—not since the rule was to receive an application. It must be fixed in some shape so that it can be traced.

Q. It is an impossible thing that applications may be made where no record appears?

A. It is not an impossible thing.

Q. How frequently are applications made to you, through letters which contain personal matters, which are not filed?

A. Not very frequently; I do not receive a great many letters; my correspondence is very limited, indeed.

Q. Did you attempt to tell the Court what proportion of school lands are sold from the office, without the affidavit as to their quality?

A. I did not undertake to say positively,—I simply gave my opinion.

Q. You stated, the means of knowledge which the office used as to the deciding of that question was received from land dealers, from the fact that surrounding lands had been purchased, and other sources of that nature?

A. Field-notes on file.

Q. Is there anything upon the records of the office to show, or is any record made when you discover the quality of land, showing the character of the land?

A. There is frequently such a record made.

Q. I ask you if that is the rule in the office?

A. It is a rule with myself.

Q. Where is that record made?

A. I have made it on the plat-book. For instance, a man makes an affidavit on the entire section, that the entire section is valuable for agricultural purposes, and not for the timber thereon. He purchases one or two forties, and files the application on the entire section, and I frequently make a minute of such an application having been filed.

Q. That is only in occasional instances?

A. Occasionally.

Q. From your method of doing business in the office, is it not possible for Mr. A to come in to-day, and the proper clerk to answer him, that he must make an affidavit, and Mr. B to come in to-morrow, and no affidavit required of him? Now, is there any means by which Mr. A can protect himself from impositions of that kind that can be practiced?

A. Do you wish to find out if there is any way that he can get the land away from second applicant?

Q. No, sir. I want to know if there is any way to protect himself against imposition in that office, if he chooses to make an examination of that nature? Take the case of Mr. Alderman, as an illustration. Mr. Alderman applied for land. It was said that he must make an affidavit. It appears from his testimony that another party applied for the land, and did not make the affidavit. What is there to prevent business being done in that way, in the office, and no opportunity to trace it?

A. I do not know of any way.

Q. So that it is discretionary, in fact, with the clerks of that office, to demand the affidavit, or otherwise, as they choose?

A. It is discretionary, with the Deputy or Commissioner, to demand it. I use no discretion.

Q. You require an affidavit, or inform the parties that an affidavit must be made?

A. Except on the general rules.

Q. You seem to exercise some discretion?

A. There are some rules on which we sell school lands on quarter payment, without any affidavit.

Q. Is this Hubbard, of which you received the money, a member of the firm of Hubbard & Co. of Huron City?

A. I do not know whether he is or not.

Q. Do you know where he resides?

A. I think he resides in Sandusky City.

Q. Are you acquainted with the firm of Hubbard & Co.?

A. Only the one member of it, if he is a member. He represents the firm.

Q. Did you, a short time prior to September 18, 1871, send any plats to the firm of Hubbard & Co.?

A. I do not remember.

Q. Did you, about that time, receive a letter from Hubbard & Co., directed to you, stating that plats had been received?

A. I could not say.

Q. Do you recollect receiving a letter from Hubbard & Co. stating that they would compensate you for your trouble?

A. I may have received a letter.

Q. Was the $50 which you received from Hubbard & Co., and which he flung so loosely upon your table, that compensation?

A. I do not understand it so,—that there was any such transaction.

Q. Did you ever receive any compensation from Hubbard & Co.?

A. I do not know whether I ever did or not.

Q. You stated how you got the minutes from Mr. Crapo,— have you ever received any other minutes for sale?

A. I think I have.

Q. How did you get hold of those?

A. They were volunteered to me.

Q. In the same way.

A. Very much.

Q. How, different?

A. I do not know of any difference.

Q. Then, precisely, you mean?

A. I would not say precisely. In the same language,—words to that effect.

Q. Answers of letters relative to land matters, which you received, you said were filed?

A. Sometimes.

Q. Letters pertaining to the business of the office,—do I understand those are always filed?

A. I think they are, most generally.

Q. Is it your rule to file the letters pertaining to the business of the office which come to you?

A. I intend to file them all.

Q. Did you file them all?

A. I cannot say positively about that.

Q. Do you recollect of ever having any that you didn't file?

A. I cannot cite an instance.

Q. The answers which you send,—are those copied on the books of the office?

A. Just as I please about that.

Q. That is a matter of discretion?

A. I use that discretion.

Q. You have copy-books in the office?

A. Yes, sir.

Q. What is the rule of the office as to copying letters referring to the official business of the office?

A. It is a general rule to copy letters?

Q. What is the rule?

A. The rule is pretty generally to copy letters.

Q. What is the rule with Mr. Edmonds?

A. The rule has been, recently, to copy the letters pretty universally.

Q. The rules are printed or written, are they not?

A. He has a series of printed rules.

Q. It is his rule in the office? So his clerks must copy the letters generally or uniformly?

A. I think it says nothing about that.

Q. Then this copying is a matter of discretion?

A. It is a request, or direction.

Q. Are the requests of Mr. Edmonds equivalent to directions?

A. I endeavor to follow his directions.

Q. Then there are directions to copy these letters?

A. Yes, I should say there were.

Q. You say that letters from these large land-dealers were not bound up with other letters, on account of the nature?

A. I intended to state, applications were not, on account of the nature.

Q. What is that nature?

A. All applications to reserve go in the applicants' boxes.

Q. What finally becomes of them, after the contract has expired?

A. I never traced one out to see.

Q. Are the contracts ever in and determined?

A. Yes, sir.

Q. You do not know what finally does become of them?

A. I do not know; there are boxes, though, that contain applications five or six years old.

Q. Mr. Edmonds promulgated a new rule in regard to proofs last summer?

A. Yes, sir.

Q. How did he promulgate or make public that rule? How came you to be aware of it?

A. I presume—

Q. Can you not tell us?

A. I cannot tell you positively.

Q. Then tell us what you presume, and why you presume it; how was that rule promulgated, according to your best knowledge, and made public in the office?

A. I think it was a ruling in some one instance. That may have been,—it might not have been.

Q. And extended from these through the office?

A. Yes, through the departments where such applications would come up.

Q. Do you know how it became public outside?

A. No, sir.

Q. You cannot tell how it extended with such rapidity to Coldwater unless Van Dunham was the telegraphic means?

A. I have no means of knowing.

Q. You said you were not interested in the purchase of land; that you have been interested in lands after the purchase?

A. I have not.

Q. Have you been interested in either sale or purchase; either or both?

A. I have not.

Q. When a party came to you to buy school lands, as I understand, you exercise no discretion as to requiring an affidavit, but you require it?

A. It has been the custom when I have been in the office, excepting under the general rule.

Q. What is that rule?

A. Where lands have been previously sold and forfeited, we require no affidavit.

Q. In all other cases you require affidavit?

A. I do.

Q. Do parties ever come here and wish to purchase without making an affidavit?

A. They have frequently said they would like to purchase them.

Q. They come there with that intention, as far as you can judge from their actions?

A. They come with that desire, I suppose.

Q. What do you do in such cases? Do you refer them to the Commissioner?

A. I refer them to the affidavit.

Q. You decided it would require an affidavit, if it were your rule?

A. I use no discretion.

Q. If they insisted upon purchasing without an affidavit, did you refer them to the Commissioner or Deputy Commissioner? You were well aware there was a discretionary power there?

A. I sometimes referred them. If I was satisfied the lands might be farming lands, I referred it to the Commissioner to have it looked up, or looked it up myself.

Q. How were you to be satisfied?

A. By his discretions.

Q. I do not know his directions can satisfy you.

A. If he directs me to make up the lands in quarter payments, that was all I needed.

Q. That satisfied you they were farming lands?

A. Yes, sir. I promulgated no opinion in regard to it.

Q. These were applications not made to you, then?

A. They may have been.

Q. Then you referred them to the Commissioner, or the party to the Commissioner, and he ordered you to make them up into quarterly payments?

A. There may be such instances.

Q. I want to know, when a party comes to you and insists on purchasing land without an affidavit, you claiming under your invariable rule there must be an affidavit, do you send him to the Commissioner or to the Deputy Commissioner?

A. I sometimes do.

Q. Or do you take it to him yourself,—take the application?

A. I may have done either way.

Q. A little further about the business of this office; we seem to be investigating that now. You made a memoranda on some of these letters?

A. I frequently did.

Q. Like that in the Hudson case?

A. Frequently.

Q. What was the object of that memoranda?

A. I do it to protect myself.

Q. When you throw them away in the waste-basket, how do you protect yourself?

A. I do not have very much protection.

Q. Then what was the object in making a memoranda of that character, if you immediately threw them away?

A. I cannot say that I used to make such memoranda. I may have done, and I may not have done. If I said positively that I did make such memoranda, on those thrown away, I wish to correct it.

Q. Then it was only a supposition that you had made such.

A. Yes, sir.

Q. Let me ask you, at the time Mr. Edmonds changed the rules requiring proofs, that it was a fact well known in the office that many of the lands were occupied, although proofs had not been filed?

A. I cannot say as to that fact.

Q. Do you know it was so?

A. I did not.

Q. Did you ever hear any of the official corps say it was so?

A. I do not, that I remember of.

Q. Did you testify to that effect before the investigating committee, that they did not do it.

A. Did not what?

Q. Did not at the promulgation of that rule withhold the decision that many of these lands were occupied by settlers, although no proof had been filed in the office,—three months' proof?

A. I don't remember whether I testified to any such thing, or not.

Mr. McGowan—The evidence was taken in writing, I believe.

Question. How long had you been in the office before last June, or before that rule was made?

Answer. I went into the office Nov. 1, 1868.

Q. And during that time, had you not learned, Mr. Robinson, that many of these licensed lands were occupied, and that no proof had been filed all this time?

A. I have noticed the occurrences where five years' proofs would come in where the three months' proofs had never been filed.

Q. Then you did have some knowledge?

A. We had their affidavits that they were on them.

Q. Didn't you know, as a matter of fact? I don't mean that you have actually seen such cases; but was it not well known that such was the case?

A. I think it was,—a general surmise, perhaps.

Q. A mere surmise?

A. Yes, sir.

RE-CROSS-EXAMINATION OF M. O. ROBINSON.

By Mr. McGowan:

Question. Your attention has been called to other minutes that you sold, other than the Crapo minutes. State whether you received any minutes, the Crapo minutes included, and sold them, with a previous arrangement with parties who let you have the minutes?

Answer. No, sir.

Q. Now, when an application is made for lands verbally, has there been any way of tracing the date of that application?

A. There has been none, except where applications were filed.

Q. To illustrate, suppose Mr. Alderman came there and

made an application for lands; would there ever be any way in cases of that kind in tracing the application?

A. There would not, unless he actually purchased the land. There may be an application, even in such cases, filed.

Q. Did you state in your testimony anywhere that the ruling of Mr. Edmonds with reference to this "three months" extended rapidly to Coldwater?

A. I did not intend to make any such statement.

Q. Do you know whether it did extend rapidly to Coldwater?

A. I do not.

Q. You do not know why I did?

A. I do not.

Q. You spoke of some department in the office,—is the work divided into departments?

A. Yes, sir.

Q. State what departments there are in the Land Office?

A. Current Business Department, Book-keeping Department, Draughtsman Department, Field-notes Department, Abstract Department, and a porter.

Q. What is the last?

A. I don't know but he is what is called a Janitor.

Q. How about the reserves and contracts,—is there a separate department?

A. Yes, sir. I omitted to state those.

Q. What was the fact in regard to those parties working in one department, having an opportunity to know what was going on in the other departments?

A. Very little, except as they see it on the records.

Q. For instance, parties working on those abstracts,—have they an opportunity, by reason of their work in their own departments, to know what is going on in the draughtsman's department?

A. No, sir.

Q. And know what is going on in any other department but their own?

A. In that department they can notice the sales of land that are going on from day to day.

Q. Such as they learn from the books?

A. Yes, sir.

Q. Is that true of other departments?

A. It is true of the book-keepers' department.

Q. Something has been said about the mails. About how many letters are you receiving each day, in your office?

A. From five to fifty or one hundred.

Q. Can you give a more specific idea of the correspondence of the office?

A. It varies somewhat. Some seasons of the year it is very heavy.

Q. When it is very heavy, how many would you receive in a day?

A. I never counted them, but I should say it numbered up to a hundred, perhaps.

Q. What would be a small number for you to receive, should you say?

A. I should think one was pretty small.

Q. What are the facts?

A. I have known of no more than one letter being received.

Q. Can you state what you think was the average number of letters received each day in the office during the year?

A. I should say from twenty-five to fifty, and maybe a little less than twenty-five. I would not say very definitely.

Q. Isn't it a fact that parties who have applied to purchase school lands, on quarter or half-payments, usually applied without affidavit?

A. They do, usually.

The Presiding Officer—If a stranger should come to the office and make an application for information or assistance, and should apply to a clerk of the wrong department, would he be directed to another clerk, of the department to which that business belonged?

Answer. It is fair to suppose that the clerk to whom a party applies would refer him to the other department.

RE-DIRECT EXAMINATION OF M. O. ROBINSON.

Re-direct examination by Mr. Grosvenor:

Question. Why did you wish to protect yourself in the case of the application for Hudson's land, referred to here?

Answer—My general rule is—

Q. I ask you why you wish to protect yourself in that case?

A. I presume in answering the rest would answer that.

Q. Why did you wish to protect yourself in this case?

A. That I would not be blamed for making any such sale.

Q. Had you any expectation of being blamed?

A. No, sir.

Q. You had the orders from Mr. Barnard?

A. To make that record?

Q. Yes, sir.

A. No, sir.

Q. You had orders to make that sale?

A. Verbal orders, probably.

Q. This was to protect you from Mr. Barnard?

A. That was to protect me in making a memorandum, for I did not assume the responsibility of the sale.

Q. Without the proof?

A. Whatever was to be recorded.

The Presiding Officer—The Senator from the Twenty-fifth (Mr. Waterbury) sends up the following question, which the Secretary will read.

The Secretary read the question, as follows:

"When a land-looker applies for school lands and refuses to make an affidavit that such land is valuable principally for agricultural purposes, is it not considered quite certain the land is valuable for timber?"

A. I make no conclusions about it; it does not apply to me.

RE-CROSS-EXAMINATION OF M. O. ROBINSON.

By Mr. McGowan:

Question. The counsel asked you if you made that minute to show that the application had been made without "proofs," putting the word "proofs" in?

Answer. I presume I did, from the record.

Q. Was the minute made with reference to the written application at all.

A. I presume it was.

Q. So that it was not one of the proofs, but the written application?

A. Yes, sir.

Q. Do you know whether that application was made after the Commissioner had required that written application should be made for lands?

A. I could not say. I should suppose it was, from the fact of its being filed.

TESTIMONY OF MARTIN HUDSON.

Martin Hudson, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified follows:

Examined by Mr. Manager Grosvenor:

Question. Do you reside in this city?

Answer. Yes, sir.

Q. How long have you resided here?

A. Thirteen years.

Q. Do you know William A. Barnard, Deputy Land Commissioner?

A. Yes, sir.

Q. Been acquainted with him some time?

A. Since he has been in town.

Q. How long?

A. Thirteen years, I should think.

Q. State whether you purchased any land from him about August, 1871?

A. I did sir.

Q. Was it a fractional piece?

A. Yes, sir.

Q. Do you remember the number of acres?

A. I think it was 54 and some—

Q. 54.20?

A. I think that is it.

Q. Do you remember the description?

A. I do not.

Q. You would if you were to hear it stated?

A. No, sir.

Q. Have you the patent for them?

A. Yes, sir.

A. In whose name is that?

A. In my own.

Q. Patented to you?

A. Yes, sir.

Q. Who selected that land?

A. Barnard.

Q. Who paid for it to the State?

A. I suppose he did.

Q. Did you?

A. I did not.

Q. How did you come to purchase that of him?

A. It was about the time I was trading land with the boys, I think, and he said he had a fractional piece that he would trade with me, for an account I had.

Q. An account against him?

A. Yes, sir.

Q. What was the amount of the account?

A. A little over $100. I told him I would see. I inquired about the land.

Q. Did you inform him you would take the land?

A. Yes, sir.

Q. Then what was done?

A. He brought me a patent for the land.

Q. You receipted your account?

A. Yes, sir.

CROSS-EXAMINATION OF MARTIN HUDSON.

By Mr. Shipman:

Question. Where is your patent?

A. It is in the house.

Q. Will you produce the patent here and leave it with the Secretary?

A. Yes, sir.

Q. Do you remember now, the description of the land?

A. I do not.

Q. Do you know where he got the land?

A. I do not know anything about it.

Q. Do not know whether it was reserved on anybody's contract?

A. I do not, sir.

By Mr. Manager Grosvenor:

Question. What was the account principally for?

Answer. Board.

Q. His own board?

A. Yes, sir.

Q. Anybody's else?

A. No, sir.

Q. Was the Commissioner boarding there at the time?

A. I do not know whether he was or not. I think not, though.

By Mr. Shipman:

Question. Did the Commissioner pay any board bills in that way?

Answer. I do not know that he ever did.

TESTIMONY OF JAMES M. TURNER.

James M. Turner, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Huston:

Question. Where do you reside?

Answer. Lansing.

Q. What is your business?

A. Land and loan business.

Q. Are you acquainted with Edmonds?

A. Yes, sir.

Q. Have you ever had any business in the office?

A. Yes, sir.

Q. Acquainted with Clarke?

A. Yes, sir.

Q. I want to call your attention to some lands in 22 N., 10 W.,—do you know anything about any lands there?

A. I never owned any lands there.

Q. You know the lands I refer to?

A. Yes, sir.

Q. State what you know with regard to their being purchased?

A. I sent a man to look some State lands there and the man came out of the woods and reported what the lands were, and I think the next afternoon Mr. Clarke came into our office and asked me what I knew about lands in that town. I told him I knew something about them,—we had a man in there just coming out, and there was some there we were going to take; and he told me that there were some that had been reserved, the application to reserve had been withdrawn, and they would be subject to entry. I told him they were the same lands we were going to locate, and he asked for my plat on it. He had the minutes of the land I was going to locate, and called to see if they were the same,—asked if he could take the plat and go to the office with it. I told him that he might, and he took the plat and went to the office. He asked us when we were going to locate the land, and I told him I was going to locate them the next morning, after the train came up from the east; and he said the application to

reserve had been withdrawn, and they were subject to entry. I said then, "We will go over and locate to-night." He recommended that we need not do that,—nobody would be after lands like them. I let it go, and the next morning I went up there to locate them, and the patent had been made up to Mr. Dodge, I believe. The lands were lands that I had no claim on whatever. I considered it simply a breach of trust with Mr. Clarke.

Q. Mr. Clarke was a clerk in the office?

A. Yes, sir. I did not consider that I had a claim on the land. I had none. They were subject to entry. It was all right that Dodge or any one else would locate.

Q. You have been at the expense of having them looked?

A. Yes, sir.

Q. What did it cost you?

A. One hundred and twenty-eight dollars and something.

Q. What time did you go over to the office in the morning?

A. Right after the arrival of the noon train. I do not know but it was right after the office opened after dinner, I think it was.

Q. What time of the day before did you lend Mr. Clarke your plats?

A. I think it was after office hours.

Q. You informed Mr. Clarke that you was going to enter the lands?

A. Yes, sir. I do not know that he got his information from me. He might not, but I told him I thought he was the man.

Q. You think so yet, do you not?

A. Yes, sir; but then he may have taken them because they were reserved by somebody else, and he may have thought, before I said anything to him about them, that they were good lands.

Q. When was it you had these lands looked?

A. I think it was in March.

CROSS-EXAMINATION OF JAMES M. TURNER.

Cross-examined by Mr. Shipman:

Question. Do you recollect, Mr. Turner, what the lands were,—the description of them?

Answer. No, sir; I have got the minutes of them over across the road, in the office. I don't recollect them.

Q. What did Clarke get from you, did you say?

A. He got the plats. I had just a cross mark on the lots I was going to locate. That is what he borrowed from me.

Q. What time did you go over in the morning?

A. I think now, that it was right after the office opened, after dinner; about one o'clock, I think, or between one and two.

Q. The next day?

A. Yes, sir.

Q. Mr. Dodge had dodged in and got them?

A. Yes, sir.

Q. Do you know how Mr. Dodge got the minutes?

A. Mr. Clarke told me, when I asked him about it, that he did not give them to Mr. Dodge.

Q. Have you any information yourself, as to how Mr. Dodge got them?

A. No, sir, nothing only surmise. I do not know that he got them of Mr. Clarke.

Q. Let me ask you this, if you have any information as to whether Dodge got them from Clarke without his knowing of it,—without Clarke's knowledge?

A. No, I do not know whether he did or not.

Q. Whether it was so claimed by any of the parties?

A. Clarke claimed to me that he did not give them to Dodge.

Q. Did Clarke come back with the plats?

A. Yes, sir,—brought them back in a few minutes, and said they were the same.

Q. The same as what?

A. The same lands that had been reserved.

Q. He took them over there for the purpose of comparing, to see whether they were the same?

A. Yes, sir.

Q. Do you recollect whether that is entered,—whether the day you went to look, or not?

A. No, I do not.

Q. You went there in the afternoon?

A. I think it was right away after dinner; it was early in the afternoon, if it was in the afternoon.

Q. Whether they had been entered that same day that you went in.

A. Yes, sir; I know that.

By Mr. Manager Huston:

Question. Can you bring up those descriptions so we can get them; then there would be a way of tracing the date.

The witness—Yes, sir.

Mr. Manager Huston—If you will bring them on Monday morning it will do just as well.

By Mr. Shipman:

Question. Is there any question but what they are the same descriptions mentioned in the testimony of Mr Dodge?

Mr. Manager Huston—They are the same descriptions, but I suppose Mr. Turner did not know what Mr. Dodge swore to.

Mr. Shipman—He can look at them.

Mr. Manager Huston—[To the witness.] Would you look at these descriptions? It may be that you can settle it right here. See whether those descriptions, as given by Mr. Dodge, are the same?

The Witness—I think I can tell.

Mr. Manager Huston—It is on page 261 [showing witness Impeachment Proceedings].

The Witness—They are the same, except one "forty," I had one "forty" more than that.

By Mr. Shipman:

Question. What became of the other forty?

Answer. That might not have been located.

Q. Did you get that land?

A. No sir,—if there was but one "forty" left I should not have taken it anyway, that being the only "forty" in the town.

Q. You did not want a single forty?

A. No, sir.

Q. Did you not have some words with Dodge, about it?

A. Yes, sir. I asked Mr. Dodge where he got the minutes from; tried to get the information from him, to find out who had furnished him with the information he had.

Q. Let me ask you, Mr. Turner, whether he did not say that he got them of Clarke and Clarke did not know it?

A. No, sir.

Q. Did not say that?

A. No, sir.

Q. Anything like that?

A. Nothing of the kind. He told me that it was not Mr. Clarke; and I mentioned two parties that I thought got the minutes, either one or the other; and he told me that, to satisfy me, he would say that it was neither one of them. Mr. Clarke was one of them. He would say positively that it was neither of them.

TESTIMONY OF W. S. GEORGE.

W. S. George, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Grosvenor:

Question. You reside in this city?

Answer. Yes, sir.

Q. Been here a number of years?

A. Nearly three and a half.

Q. Are you acquainted with the respondent?

A. I am.

Q. How long have you known him?

A. I have known him since he came to Lansing, January 1, 1871.

Q. When did first make his acquaintance?

A. Within a very few days after he came here.

Q. How were you introduced?

A. I think I introduced myself.

Q. Did you have a talk with him at that time?

A. I had some conversation with him.

Q. State that conversation, or the substance of it?

A. I told him I was glad to welcome him to Lansing, and I hoped my relations with him would be as pleasant as they had been with all the other State Officers I had known. I told him I was sorry, for his sake, that the salary of the office, like the salaries of the other State Officers, was so paltry, but I told him I thought he would find society pleasant in Lansing, and I invited him to meet me and my family with some friends at my house. He declined. He said he did not visit much, and I told him at some future time he might meet us, and I referred again to the salary. I said it seemed a shame that a State like this should not pay its officers a better salary, and he made the remark that he had understood there was money in these State Offices, and he meant to find out whether there was or not, and have some of it, if there was any.

Q. Is that the substance of the conversation?

A. That was very nearly the conversation that took place.

CROSS-EXAMINATION OF W. S. GEORGE.

By Mr. Shipman:

Question. This was the first time you met him?

Answer. Yes, sir.

Q. How long did you talk with him?

A. A very few minutes indeed, at that time.

Q. You introduced yourself to him?

A. Yes, sir, I believe so.

Q. Where was the conversation?

A. In Edmonds' office.

Q. At the old office?

A. Yes, sir.

Q. Was there any one else in there

A. I think not.

Q. What time in the day was it?

A. It was in business hours.

Q. Did he speak in his ordinary tone?

A. He seemed to.

Q. It did not seem to be any great secret?

A. No, sir. If you do not ask me the question, I shall feel bound to say that I took it to be a joke, at the time. I always considered it a joke.

By Mr. Manager Cochrane:

Question. Do you know what Edmonds considered it?

Answer. I cannot tell you what his thoughts were.

The Presiding Officer—It is now four o'clock. The Senate, sitting as a Court of Impeachment, stands adjourned until Monday, at 9 A. M.

Lansing, Monday, May 13, 1872.

The Senate met and was called to order by the President, Hon. Morgan Bates.

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

Absent without leave: Senators Barber, Dexter, Gay, Wheeler, and Wood.

The President *pro tem.*, Senator Emerson, resumed the chair.

GEORGE B. GRISWOLD RECALLED.

Examined by Mr. Manager Grosvenor:

Question. Were you with Capt. Edmonds, Mr. Clarke, and another of your fellow-clerks at the Lansing House sometime last winter at a champagne and card supper?

Answer. I was not.

Q. Were you ever there with them, upon an occasion of that kind?

A. Never.

Q. I will ask you whether you know anything of Captain Edmonds being intoxicated, during his official term?

A. I do not.

Q. Have you never seen him?

A. Never.

Q. Have you never seen him under the influence of ardent spirits?

A. I have never seen him when I could detect, by any action, that he was under the influence of liquor.

Mr. Manager Grosvenor—Mr. President, when I come to look at the testimony taken before the committee, I find that this gentleman was not one of the party.

Senator Storrs—I was informed, Saturday evening, by our Sergeant-at-Arms, that it would be impossible for him to report here for duty; and he wishes me to write and send in his resignation to the Senate.

The Presiding Officer—The Senator will send to the Secretary the resignation.

Senator Storrs—I have just commenced to write it. I thought I would take this opportunity to give notice to the Senate.

Senator Moffatt—offered the following resolution:

Resolved, That Chas. T. Dickey be, and he is hereby appointed Sergeant-at-Arms of the Senate, sitting as a Court of Impeachment.

The resolution was adopted, by yeas and nays, as follows:

YEAS.

Mr. Ball,	Mr. Price,	Mr. Stockbridge,	
Begole,	Prutzman,	Storrs,	
Cawley,	Putnam,	Waterbury,	
Hannahs,	Randall,	Wilcox,	
Mann,	Romeyn,	President	
Moffatt,	Sheley,	*pro tem.*,	18
Neasmith,			

NAYS. 0

125

H. C. CLARKE, RECALLED.

Examined by Mr. Manager Grosvenor:

Question. Were you at the Lansing House in August or September last, in company with the respondent and other clerks in the office, at a social sitting?

Answer. Yes, sir.

Q. What were you doing?

A. We were in my room playing a game of pitch.

Q. Who was there?

A. I could not say who was there, all of them. I think the Commissioner was there a portion of the time.

Q. Was he not there all the time?

A. I think he was there all the time we were in the room.

Q. What were you doing besides playing pitch?

A. Having a kind of a visit.

Q. Have any refreshments?

A. There was some wine there, sir.

Q. Had you not indulged in the use of wine pretty freely?

A. I do not know. I think perhaps I had.

Q. How was it with the balance of the party?

A. I think they all drank some wine. I do not know how much.

Q. Do you know how many bottles you drank?

A. I do not know how many bottles they drank.

Q. Had they not all drank pretty freely?

A. I did not see that they had drank freely.

Q. What did you see?

A. I could not say.

Q. Whose party was it?

A. I guess it was my party as much as anybody's,—it was in my room.

Q. Did you invite the other persons to come?

A. I think it was rather an informal matter,—they came in accidentally.

Q. Who called for the wine?

A. I could not say whether I did, or not.

Q. Who paid for the wine?

A. Whoever called for it, paid for it. I could not say who it was.

Q. Was not that a pretty gay party?

A. I do not know. All seemed to enjoy themselves very well.

Q. Had they not been drinking to excess?

A. I could not say that they all had. I could not say that any portion of them had been drinking to excess.

Q. Had they been drinking so as to be under the influence of the wine, or whatever they drank?

A. That is what we drank.

Q. Were you under the influence, more or less, of the wine?

A. I do not know whether we were or not. I think *I* was under the influence more or less.

Q. Was it more or less?

A. I think it was less.

Q. Less than the others?

A. No. I think I was fully as much under the influence of it as anybody in the party.

Q. What time did that party break up?

A. Ten or eleven o'clock, I guess.

Q. Where did you go?

A. I think we went down stairs, and then I guess we went down street and got some cigars, and came back to the house and sat down in front of the house.

Q. Captain Edmonds with you?

A. I think he was.

Q. How long did you remain there?

A. I could not say.

Q. Where did you go then?

A. I do not know,—I think I went to my own room.

Q. Did you not go to any other place in town?

A. Not that I remember of, sir.

Q. Did you not go up and make Alice a call?

A. I do not remember of it, sir. I do not know that we did.

Q. What is your best recollection about your going and seeing Alice that night?

A. My best recollection is that we did not. I do not remember of it, and I think I should if we had.

Q. Will you please state who composed that party?

A. I think Mr. Bowen, Mr. Dunham, the Commissioner, and myself. I don't know but what there was another party, —that is, I do not remember; I think there was.

Q. Do you remember who came with the Commissioner?

A. No, I do not.

Q. Do you know whether he was there among the first, or whether he came in after?

A. I think they all went up together; I do not recollect very distinctly.

Q. Where did you assemble there?

A. Either there or in the hall below; I do not recollect very distinctly about it.

Q. You did not go from the Land Office?

A. No; I do not think we did.

Q. What time in the evening when you went in?

A. Perhaps eight o'clock; I do not recollect about the matter.

Q. You remained there how long?

A. Two or three hours.

Q. Do you recollect testifying in this case before the Committee of Inquiry of the House of Representatives?

A. Yes, sir.

Q. Do you recollect your testimony upon the subject of going to see Alice McCabe?

A. Yes, sir.

Q. What did you say?

A. I think the question was asked me if I recollected of being there, and I answered, "No, that I did not;" and I also

answered that from what I understood since that I presumed I was there. From what I have understood since then, I now think I was not there.

Q. Why cannot you recollect distinctly the transactions of that evening?

A. The principal reason is, that there was no reason why I should remember it any more than any other occurrence. It was some time ago, and I never expected to have to testify about it.

Q. Were those occurrences so frequent that they made no impression upon your mind?

A. What do you allude to?

Q. Your parties of that character,—were the occurrences so frequent?

A. It was very often the case, that gentlemen were in my room playing pitch.

Q. And drinking socially?

A. Yes, sir. The Commissioner was not always with them, and it was not frequent that he was with them.

Q. What was the number of that room?

A. 47.

Q. That is your room?

A. Yes, sir.

Q. Was it not true that you were so under the influence of liquor yourself, that you cannot remember? Is not that the reason you cannot remember more distinctly?

A. I presume if I had drank nothing at all that night, my recollection would have been better on the subject, perhaps.

Q. Do you think your recollection was dimmed any by the champagne that you drank?

A. It is possible, sir.

Q. Is it not probable?

A. It is possible.

Q. What reason did you give the Committee for not remembering?

A. I do not recollect what it was.

Q. When did you read this testimony over, last?

A. It was after the Investigation Committee had made their report, some time.

Q. Let me read you a few lines of that testimony, subscribed to by you, to refresh your recollection. "I do not remember who was intoxicated. I was intoxicated. I don't know what became of Captain Edmonds. We were drinking in the fore part of the evening, in my room. We walked there, if we went. The last recollection was at the Lansing House. Bowen, Van Dunham, Johnson, and Captain Edmonds were drinking in my room. I recollect of ten, or half-past ten, but I did not recollect anything from that time until morning. I have a faint recollection of something that occurred on the street, and Captain Edmonds was with me until I lost my consciousness. We were playing cards, when not drinking,—playing pitch." Is that your recollection, now?

A. Well, you might make such a statement from my recollection, or what I now think. You might make such a statement, and not make the whole of it.

Q. This is signed by you, I think?

A. Yes, sir.

Q. Is that your recollection, now?

A. That alone?

Q. Yes, sir.

A. No, sir; and it was not then.

Q. So far as it goes?

A. So far as it goes, with no other circumstance, no explanation, or anything. It is mine now, just as I testified, and just as I testified then.

Q. Then it is true you were intoxicated then, to the extent you lost your consciousness?

A. No, sir.

Q. Didn't you lose your consciousness from liquor?

A. I lost my recollection, not from liquor, but as I said, my recollection might have been better, if I had not taken any wine.

Q. When did your consciousness forsake you?

A. I can't say that it forsook me at all.

Q. Did you not say that your consciousness left you, or forsook you?

A. No, sir.

Q. Didn't you say that Mr. Edmonds was with you until you lost your consciousness, and that was half-past ten that night?

A. He was with me until half-past ten that night. The last I remember he was with me, and that was when I went to my room, or when I left him and the rest of the party.

Q. The rest were in the same condition as yourself?

A. The rest of the party were there when I left to go to my room?

Q. Who were with you?

A. They were all in the room when I went down stairs. They went down with me. I mean, when I left them in front of the hotel to go to my room, they were all there.

Q. Did you not state that you lost your recollection about half-past ten that evening?

A. I stated that I recollected nothing after half-past ten.

Q. How do you know that it was at that point of time you lost your consciousness?

A. That was my opinion, only,—understand me, I do not say I lost my consciousness. That was the last I remember from half-past ten. It is my opinion it was about that time.

Q. When did you recover your consciousness?

A. I recollect what transpired in the morning,—no, I do not. I do not recollect what transpired the whole day; still it is not probable that I was intoxicated the next day. I do not recollect anything that transpired the next day, or the next day after that.

Q. Were you about your business?

A. Yes, sir.

Q. Attended to your duties in the office?

A. Yes, sir.

Q. You are sure you knew yourself that day?

A. I presume I did; I do now.

Q. And that you attended to your business that day?

A. I presume I did.

Q. Wouldn't you call that drinking to excess to produce that effect?

A. That effect was not produced by drinking.

Q. What produced that extraordinary state of things?

A. I knew then what I was about; but do not know now what I was about then.

Q. You do not know now what you were then about?

A. No, sir, I do not. I do not recollect.

Q. Have you tried to forget?

A. No, sir.

A. Did your testimony before the examining committee tend to keep the matter in your memory any?

A. I do not think it did; I do not know that it did or did not.

Q. You have never tried particularly to forget anything since that?

A. No, sir.

Q. How was Van Dunham that night? How was it with him?

A. I think he was well.

Q. Was he pretty well drunk, or sober?

A. No, sir; I think he was all right.

Q. How would he compare with yourself?

A. I think the comparison would be favorable to Van Dunham.

Q. Do you recollect of you and him going off together?

A. I think he went up street and got some cigars,—the whole party.

Q. Did you not, after your return to the hotel with the cigars, go with him?

A. I do not think I did.

Q. Do you know of Van Dunham being intoxicated before that or after?

A. I think I've seen Mr. Van Dunham intoxicated.

Q. Has he not been in the habit of getting intoxicated quite frequently the last year, or since he has been in the office?

A. I could not swear how frequently, nor could I swear that he has been in such a habit, for I do not know.

Q. Do you not know of his being taken up and fined for that one time in this city?

A. I heard of it.

Q. Do you not know?

A. No, sir.

Q. Were you not present at the examination?

A. No, sir; I heard the report sometime afterwards.

Q. About what time was that transaction?

A. I heard of it two or three weeks after it occurred.

Q. When was that?

A. Sometime last winter.

Q. Was that generally known in the office among the clerks?

A. I guess not; for I know I did not hear of it for two or three weeks after it occurred, myself.

Q. Has it not been quite common and notorious among the clerks that Van Dunham was a drinking man, and drank more or less,—drank to excess sometimes?

A. I think that has been the understanding.

Q. Has he been very constantly at his post?

A. Not constantly.

Q. Has he not been away a great deal?

A. He has been out of the office considerably.

Q. Has he not, in consequence of his drinking, been unfit for his duties in the office?

A. I think not.

Q. Has he not some of the time?

A. I think not.

Q. Have you not seen him under the influence of liquor so that he was unfit for his duties in the office?

A. I never saw him under the influence of liquor in office hours.

Q. That is not the question. I asked you the general question, whether you have seen him, during his term of clerkship, under the influence of liquor so as to be unfitted for his duties?

A. Well, if he was called upon at that time, he could not have performed them; no, sir.

Q. You have seen him so?

A. I have seen him intoxicated.

Q. So that he could not have discharged his duties if he had been called upon to do it?

A. I think he could not.

CROSS-EXAMINATION OF H. C. CLARKE.

Cross-examined by Mr. McGowan:

Question. At such times was it in office hours?

Answer. It was not.

Q. What time of the day was it that you have seen Van Dunham drunk, if at all?

A. In the evening, if ever.

Q. What were Van Dunham's duties in the office?

A. Draughtsman.

Q. What do you say about his being under the influence of liquor or incapacitated for labor during office hours?

A. I never have seen him so.

Q. Do you know whether he has or has not done his work well in the office?

A. I think he has done it well.

Q. Is he not particularly well fitted for the place of draughtsman?

A. He is, in my judgment.

Q. You speak of his being out of the office; do you know how much time is allowed each clerk out of the office in a year?

A. Thirty days, I think.

Q. Do you know whether Van Dunham has been out more than thirty days?

A. I don't know how much he has been out.

Q. What was the fact, when the clerks are out more than thirty days, with regard to their pay?

A. They are charged at the rate they are paid, for the time they are out; it is deducted from their salary.

RE-EXAMINATION OF H. C. CLARKE.

Re-examined by Mr. Manager Cochrane:

Question. What is the distinction that you make between unconsciousness and losing of recollection; I want to understand that, and one member of the Senate would like to understand it. You say that you were conscious, but you lost your recollection, about half-past ten; now, will you explain that so we will know precisely what it means?

A. Yes, sir, I will do so.

Q. We would like to have you.

A. If I was to say I was unconscious, I would say I was unconscious at the time; but if I was to say I lost my recollection, I mean that I recollect nothing that transpired after that time, although I was not unconscious at the time it transpired.

Q. Now, if you lost all recollection of what transpired after half-past ten o'clock that evening, how do you recollect that you were conscious?

A. I do not say that I lost all recollection then. If you had asked me about it that evening, I might have recollected perfectly, or the next day, perhaps.

Q. How do you know that you would have recollected it then, or the next day? How could you have told at the time you were examined before the committee? How could you have told the week before that? How could you have recollected what transpired? It appears that you recollect very well what transpired up to ten o'clock,—up to the time you left your room,—then there seems to come a sudden cloud over

your memory. Now, how do you know that the next day you would have been able to have told what transpired after half-past ten o'clock?

A. Because the period of time was so short that I do not think I should have forgotten.

Q. Then, let me ask you, why the liquor so affected you, if you recollect, from the time of this occurrence up to the present time, what transpired in your room, but that it shortened your memory as to other transactions?

A. I do not recollect everything that transpired. I only recollect the general fact that we were there.

Q. Do you recollect anything that transpired after half-past ten,—where you went,—what you did,—whether you drank any more?

A. No; the occurrence, as it transpired, I do not think was sufficiently marked or striking that I have any reason to recollect,—like undressing, and going to bed, and getting up in the morning, as I do every night and every morning.

Q. Because that is ordinary business with you?

A. Yes, sir.

Q. Is it common business with you to go out after ten o'clock, around town, in a state of hilarity, so that you recollect so little about it,—is that a common occurrence with you?

A. I do not think it is a common occurrence. I have done it frequently.

Q. Was it a striking occurrence,—an unusual occurrence in your life, or since you have been here in this office?

A. I do not think there was anything remarkable about it that I could remember that occurrence, any more than any other.

Q. Had these occurrences been frequent before, when you had been in that condition, or bordering upon it?

A. I had parties in my room, frequently.

Q. No; when you had been in a condition of obliviousness?

A. No, I was not in a condition of obliviousness at that time, sir.

Q. Were you playing for money that night?

A. I was not, sir.

Q. Have nothing on the corner?

A. No, sir.

Mr. McGowan—I do not understand the Manager's question.

Mr. Manager Cochrane—I asked him if he had nothing on the corner? [To the witness.] You understand the question, do you?

The Witness—I think there was a bottle on the corner.

The Presiding Officer—I presume the Senators do not understand.

Several Senators—We desire an explanation.

Mr. Manager Cochrane—I think, perhaps, Mr. Clarke can inform you if you go to his room this evening. I am not aware whether he can or not; but men that play pitch generally know what it means.

Question. You do not recollect how many bottles you drank that night?

Answer. I do not recollect.

Q. You paid the bill?

A. I do not know that I did or that I didn't.

Q. I thought you said you did?

A. I said whoever ordered it paid for it.

Q. Did you pay any bill,—or portion of it?

A. I do not recollect whether I did or did not.

Q. Do you owe for it yet, if you owe anything?

A. I do not owe anything, sir.

Q. Did you pay for it that night?

A. If I owed for it, I paid for it.

Q. You have forgotten that fact, whether you paid for it or not?

A. I forget whether I ordered it or not. I do not remember whether I ordered. If I ordered it I paid for it at the time I got it. Whoever got it paid for it.

Q. Were you playing for the wine?

A. No.

Q. You stated before the committee something about going to this house of ill-fame referred to, but that since you had reason to think that you went there. Will you state the facts that led you to think that you went there? I want facts now, if any have come to your knowledge?

A. Yes, sir. I will state how I came to make the answer that I did, and why I make this answer now. One of the committee asked me if I went down there, and I told him I could not say, and they wanted to know of me if, from anything that had come to my knowledge since, I thought that I went. I answered that from something I had heard since, that I presumed I might have been there. From what I have heard since from a young man in the office, who said that he thought that I went there, and since upon talking with him he is quite clear that I did not go there; consequently I think that I did not.

Q. Then, in fact, you do not know whether you went there not? That is what you mean to say?

A. I do not swear, positively, that I did go there, or not. But I don't think I did. That is my recollection on the subject and it was then, and the reason I made the reply was from—

Q. Do I understand your room is at the Lansing House, or Chapman House?

A. At the Lansing House it was. I do not board there now.

Q. You attended to your business the next day, you say?

A. Well, I think I did.

Q. You presume you did?

A. I presume I did.

Q. Why.

A. Why, do I presume I did?

Q. Yes, sir.

A. Because it was my usual custom to attend to my business every day.

Q. Then what is your usual custom you don't recollect very well; what comes in the ordinary routine of duty does not impress itself on your mind.

A. No, sir.

Q. Did you ever see Mr. Cornell there with Van Dunham?

A. Yes, sir.

Q. You know him, do you?

A. Oh, yes.

Q. Did you know that Cornell and Van Dunham were dealing in licensed lands?

A. I had no knowledge on the subject.

Q. Did you ever see them go off together?

A. No, only on the street. I have seen them walk off together on the street.

Q. Did you ever know of their being absent from the office, or out of town together, examining lands?

A. No, sir.

Q Do you know whether Van Dunham was absent during that year more than his thirty days or that proportion?

A. I do not.

Q. What is your opinion with regard to it, so far as your recollection now goes?

A. I don't think he was absent any more—much more, if any—than his allowance.

Q. You say Van Dunham was out of the office considerably. Why did you make that expression?

A. He used to go out frequently,—out of the office. His work did not require him there all the time during the winter. The draughtsman has, perhaps, two or three hours work in the morning, or, perhaps, a half day, and then the balance of the day there would be nothing particular for him to do, and portions of that time he was in and portions of that time he was out.

Q. Then, when you say he was out of the office considerably, you meant he was around town,—not absent from town?

A. Not absent from town.

Q. Can you tell the amount which you can drink before you lose your memory? Have you ever gauged it?

A. I never have.

Q. A bottle of wine, do you think, will bring you?

A. I should think it would.

Q. Did you drink a bottle of wine that night?

A. I do not think I did,—in fact I think not.

Q. Nothing else but wine there?

A. That is all.

Q. Mix anything with the wine, in the shape of liquors?

A. We did not mix.

Q. You do not recollect the condition of Edmonds, that night, as to whether he was intoxicated or not, do you?

A. If he had been intoxicated, that would have been an occurrence so marked that I think I would have recollected it. Consequently, I think he was not.

Q. How about the other young men,—what was their condition?

A. I could not say, sir.

Q. That occurrence was not very marked with them,—nothing peculiar in being drunk or sober?

A. They were not of sufficient importance for me to have noticed, particularly.

Q. How was it with Bowen?

A. I think he was quite hilarious.

Q. What do you mean by that, anyway?

A. Perhaps as much under the influence of liquor as I was, and perhaps more. I think more.

Q. You have not any means of knowing the state of his memory?

A. No, sir.

Q. You presume that he was conscious?

A. I do not know whether he recollects.

Q. Fully conscious, but mighty forgetful!—that is the condition of a Lansing drunk, is it?

A. I could not say with regard to that, sir.

Q. Van Dunham,—how was he?

A. I guess he was all right.

Q. I understand you that Dunham is particularly apt to get in that condition. Did he not take advantage of it that night and let himself out?

A. I do not think he did.

Q. Do you recollect how he was?

A. I do not recollect distinctly.

Q. Johnson,—how was he?

A. I guess he was all right,—I do not recollect about it.

Q. Then there was but one drunken man in the party, and that was Clarke?

A. I did not say so.

Q. You recollect all those other men were not, but you do not recollect precisely whether Mr. Clarke was?

A. I did not say that I recollected they were not.

Q. You recollect about the Commissioner,—that he was not.

A. Yes, sir; pretty straight, I think he was.

Q. Talkative, or reticent as he generally is?

A. I do not think he is very reticent generally.

By Mr. Manager Grosvenor:

Question. Were you at the Chapman House, at that party?

Answer. No, sir. I was not there.

Q. I believe you had a photograph of Mr. Porter?

A. No, sir. I never had.

Q. Did you ever see one in the office?

A. I think I have seen one; I think I have seen Griswold have one.

The Senator from the Second (Mr. Sheley) sent up the following question, which the Secretary read:

"Did the clerks take the thirty days allowed them just as they wished, or did the Commissioner inform them when they could take the time?"

Answer. I think the practice has been to ask the Commissioner if they could be absent at that time. They did not take

it as they wished. With the Commissioner's consent they took such times as they wanted.

Mr. Manager Grosvenor—We wish to consider, as read, the oath of office required by the Constitution and laws of the State, of Paddack, the book-keeper in the office. The oath is in the usual form and duly certified.

OATH OF OFFICE.

STATE OF MICHIGAN, } ss.
County of Ingham, }

I do solemnly swear that I will support the Constitution of the United States, and the Constitution of this State, and that I will faithfully discharge the duties of the office of book-keeper in the State Land Office, according to the best of my ability.

HEDGES L. PADDACK.

Sworn and subscribed before me, this third day of January, 1871.

CHAS. A. EDMONDS,
Notary Public for Branch County, Mich.

STATE OF MICHIGAN, } ss.
Office of the Secretary of State, }

I, Daniel Striker, Secretary of State of the State of Michigan, do hereby certify that I have compared the annexed copy of oath of office of Hedges L. Paddack, as book-keeper in the State Land Office, with the original filed in this office January 3d, 1871; and that it is a true and correct transcript therefrom, and of the whole of such original.

In testimony whereof, I have hereunto set my hand and affixed the Great Seal of the State of Michi-
[L S.] gan, at Lansing, this 12th day of May, in the year of our Lord one thousand eight hundred and seventy-two.

G. M. HASTY,
Deputy Secretary of State.

STATE OF MICHIGAN, SECRETARY'S OFFICE,
Lansing, May 12, 1872.

I, Daniel Striker, Secretary of State of the State of Michigan, do hereby certify that after diligent and careful search among the files of this office, I find oaths of office of the following named officers and clerks of the State Land Office on file, viz.: Charles A. Edmonds, Commissioner; Wm. A. Barnard, Deputy Com'r; Hedges L. Paddack, bookkeeper; and further, that I cannot find the oaths of office of any other clerk of said State Land Office on file in this office.

In witness whereof, I have hereunto set my hand, and affixed the Great Seal of the State of Michigan, at Lansing, the day and date first above written.

[L. S.]

G. M. HASTY,
Dep. Sec. of State.

TESTIMONY OF A. L. BOURS.

A. L. Bours, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Huston:

Question. What is your business?

Answer. Book-keeper in the State Treasurer's office.

Q. How long have you been there?

A. Over four years.

Q. Can you state the number of clerks in the Land Office the 1st of January, 1871?

A. I think I can tell nearly. There were eight besides the Deputy and book-keeper.

Q. How many have there been since Edmonds came in?

A. The last records we have is about the close of the last fiscal year in September. We have adopted a different system since that time. There seem to be about fourteen, besides the Deputy and book-keeper.

Q. What was Clarke paid when he first went there?

A. $1,000 a year.

Q. Have any of the clerks in the Land Office been employed in any of the other offices prior to their going into the Land Office.

A. Some four or five of them, if not more.

Q. Will you state how the salaries paid to clerks in the Land Office compare relatively to the salaries paid to the clerks in the other State offices?

A. Those in the Land Office are 25 per cent higher than those in the Secretary of State's Office, and 15 or 20 per cent higher than those in the Auditor General's Office.

Q. How much higher are those paid that were in the Secretary of State's Office who are now in the Land Office, than they were when they were in the Secretary of State's Office?

A. I should say about 25 per cent. Clerks that were paid $60 in the Secretary of State's Office, receive $75 to $85, and upwards, in the Land Office.

Q. What are the clerks who have been in the Secretary of State's Office a year to a year and a-half, receiving now,—say Mr. Freeman?

A. He receives $65 a month.

Q. How long has he been in the office of the Secretary of State?

A. Two years and upwards.

Q. What is his position there?

A. I do not know. He seems to be one of the regularly employed clerks in the front office.

Q. You say Clarke was paid $1,000 a year from the start?

A. Yes, sir.

Q. How long was it before Mr. Dunham was paid $1,000 a year after he went there?

A. Mr. Dunham was employed at $900 a year. It was all that he could be paid at the time he was employed. The salary law has been amended since that time, so that any extra clerk may be paid in the discretion of the Commissioner a thousand dollars a year. He was paid $75 a month, and this salary of

$1,000 a year commenced at the time he was appointed draughtsman.

Q. How long was that after he first commenced working in the office?

A. He commenced working in the office shortly after Edmonds became Commissioner, and held that position until Barnard resigned the position of draughtsman. I think the 1st of June,—at the time Porter left the office.

Q. When Barnard became Deputy, Mr. Dunham took his place as draughtsman?

A. Yes, sir.

Q. Will you state how you keep the book that has "Wm. A. Barnard & Co.'s scrip account" on it,—whether there is such a book kept in the Treasurer's office?

A. We have a book called the swamp land journal, on which an account is opened on every swamp land warrant that is issued. There are several accounts opened with parties who deal largely in scrip, for accommodation; among others is Wm A. Barnard & Co. We receive our directions from the Land Office, that a certain warrant has been assigned to Wm. A. Barnard & Co., or to any other dealer in scrip. In that case we close up the account with the warrant, and credit it to the person having the scrip account. We have such an account with Wm. A. Barnard & Co.

Q. What is the amount of icrip that you have charged againat them for land sold since the first of June, 1871?

A. $45,805.76.

CROSS-EXAMINATION OF A. L. BOURS.

Cross-examined by Mr. McGowan:

Question. That was the amount charged against Wm. A. Barnard & Co?

Answer—Yes, sir.

Q. I understand you, you have a number of other such accounts?

A. Yes, sir.

Q. About how many?

A. Perhaps a dozen. I think not to exceed a dozen.

Q. Of parties who deal largely in scrip?

A. Yes, sir.

Q. Are they kept as private accounts, or on the public books?

A. They are kept on the same books that we keep the accounts of their warrants. It is simply a check to see that the warrant is not overdrawn, or that the particular credit was overdrawn.

Q. A matter of convenience to the office, to keep a trace of this matter?

A. Yes, sir. The original method was by charging each month the amount drawn on the warrant, but as the business increased it was found very inconvenient, and this book is kept as much for our own convenience as anything else.

Q. Name a few of the parties that have each accounts, as well as Barnard & Co.

A. The most important one, I suppose, is David Preston & Co. of Detroit. There is also an account with Hewitt & Co., and there is one with Fisher, Booth & Co.

Q. Where do they reside,—Fisher, Booth & Co.?

A. In Detroit, I think: They are bankers there.

Q. What other one?

A. Merrill & Palmer.

Q. From where?

A. I don't know. There has been an account of this class with E. H. Porter, but that is closed now since his connection with the office ceased. I don't remember any other now.

Q. In speaking of the number of clerks at the close of the fiscal year of 1871, you said there were about fourteen?

A. Yes, sir.

Q. Does not your book give it definitely?

A. Well, it seems to vary at different months. Sometimes one cannot tell exactly from this book, because frequently clerks

were not present at the time they were paid off, and were subsequently paid. [Witness refers to book.] In August there were thirteen, besides the regular clerk, the book-keeper, the draughtsman, and Deputy. The regular clerk,—that position had been formed since the commencement of the office, or since the first of January, 1871. The salary law as it stood the first of January, 1871, did not provide for a regular clerk.

Q. I understood you to state that Mr. Clark's salary was $1,000 from the start?

A. Yes, sir.

Q. Are you sure about that?

A. I think so, sir. The reason I am so positive is this: At the time he came in to receive his pay, I paid him myself, and the remark was made that it was a little singular that he should be paid $1,000 to commence with. It was quite unusual in the office for clerks to commence on the highest rate of salary that the law provided for.

Q. Will you state what month that was?

A. I think I can tell, sir, by examining the books.

Q. I will assist you by directing you to June or July, 1871. He says that is about the time he came into the office?

A. [Witness examines book.] In July he was paid for part of a month,—paid $37.50. It is possible that may have been a half month. I do not know, sir.

Q. At what rate would that be a year?

A. That would be at $900.

Q. Will you look at the next month?

A. I acknowledge that I had an error. The next month was $75.00.

Q. That is at the rate of $900 a year?

A. Yes, sir.

Q. He commenced, then, at the rate of $900 a year, did he not?

A. Yes, sir.

Q. Is it not a fact that the number of clerks change?

A. There are more or less at various seasons of the year as business is more or less urgent.

Q. Do you know the average number of clerks in the office during the fiscal year of 1871?

A. The year just closed?

Q. Yes, sir.

A. I should think it was not less than that. Twelve aside from the principal clerks, the regular clerk, book-keeper, etc.

Q. The book-keeper?

A. Deputy book-keeper, and deputy clerk.

Q. I will call your attention to this, and ask you if you can state about the number of clerks on the average that were employed during the calendar year 1870, and running to January 1st, 1871?

A. I find here [looking at paper] that the number was from nine to ten every month, excepting one month it reached eleven, besides the Deputy.

Q. Look and see if one month it did not reach twelve?

A. Including the Deputy, it did.

Q. Nine to ten exclusive of the Deputy?

A. Yes, sir.

Q. Ten to twelve, including the Deputy?

A. Yes, sir.

Q. That was during the calendar year 1870?

A. Yes, sir.

Q. You say you ascertain that from looking at that; what is the statement you have there?

A. It is an official statement from the Auditor General of the number of clerks employed in the office during the year 1871.

[The counsel here requested the witness to make a detailed statement of 1870 and '71, at some convenient time, of the number of clerks in the office, and hand it to the Secretary.]

Question. You have stated that the salary of the clerks in the Auditor General's office was fifteen per cent lower than that in the Commissioner's office?

Answer. Yes, sir.

Q. What time do you refer to,—simply since Mr. Edmonds' administration?

A. They have always been higher in the Land Office, but more particularly since Mr. Edmonds' administration.

Q. Is it not a fact that during the year 1870, or previous to Mr. Edmonds' administration, that the clerks in the Land Office were paid the full amount allowed by law.

A. Yes, sir.

Q. Without any reference to the time they had been in the office?

A. Yes, sir.

Q. Are there clerks employed in the Treasurer's office?

A. Yes, sir.

Q. What are the facts in reference to their pay, as compared to the Land Office?

A. There are no clerks in the Treasurer's office that are paid more than $900, currency, this year or last, although the law allows them to be paid $1,000.

RE-DIRECT EXAMINATION OF A. L. BOURS.

Examined by Mr. Manager Cochrane:

Question. I would like to ask you at what time the increase in that clerk's salary took place?

Answer. He received $75 a month, as appears here, for one and a-half months.

Q. When?

A. The last half of July, and August.

Q. 1871?

A. Yes, sir; in September he was paid $83.33.

Q. Do you know what time the law of 1871 went into effect which authorized the pay of $1,000?

A. The last clause of the law was, that the law should take immediate effect, but in regard to those whose salaries were increased by it, it took effect the first of January preceding.

Q. The law of 1867 did take immediate effect?

A. Yes, sir. I remember the law took immediate effect, and it was published with the "immediate-effect laws." The previous law provides only for the salaries of the two previous years. It made no provision for the salaries of 1871. This act was made to take effect the first of January, 1871,—back of its passage.

RE-CROSS-EXAMINATION OF A. L. BOURS.

Cross-examined bp Mr. McGowan:

Question. You stated, during the year 1870 all the clerks in the office had all the salary allowed by law. Now, is it not a fact that, during the year 1871, a part of the clerks through the year received a less salary than was provided by law?

A. There were; yes, sir. For the statement of the salaries of 1871, I will be obliged to refer to the Auditor General's records, for in many instances we have not preserved full lists.

RE-DIRECT EXAMINATION OF A. L. BOURS.

Examined by Mr. Manager Grosvenor:

Question. I do not quite understand the answer to the last question, that the salaries of the previous years were less than in 1871. Was that in consequence of the law, in any particular? Was not the rate less under the law?

Answer. The law that was in force, previous to 1871, provides that the extra clerks might be paid less than $900. In the Land Office, they were paid up to that amount in 1871. The extra clerks might be paid $1,000 a year, but they were not all paid $1,000 a year in the Land Office.

The Presiding Officer—What do you mean by extra clerks?

Answer. They are all denominated extra clerks, except those defined by the law.

Q. All the clerks would be extra clerks then, excepting the Deputy, book-keeper, and draughtsman?

A. The Deputy, book-keeper, and draughtsman, and one clerk in the Auditor's office. There are four extra clerks in the office.

Q. They are confined by the statute?

A. No, sir; they have a book-keeper and draughtsman; that is confined to two different persons,—their duties are entirely distinct.

The Senate here took an informal recess.

AFTER RECESS.

MR. G. F. GILLAM, RECALLED.

Examined by Mr. Manager Huston:

Question. You have looked up the amounts of land that were reserved on scrip that is matured, where the patents ought to have been issued under the law. State the amount you found.

Answer. Where the scrip is matured and still unpatented, 33,868 17-100 acres.

Q. To whom should the patents be issued?

A. There are fifteen different parties. Shall I read them over?

Q. Yes. sir.

A. E. P. Barras, A. Pack & Co. (on two different matters), J. G. Owen, E. Hall, L. M. Lapree, A. M. Green, T. Bathay, Green Pack, Charles Decker, O. R. Johnson, Elias Steele, G. Pack, E. R. Royce, Geo. French, and John L. Wood.

Q. How long has it been since this scrip has matured?

A. There is some as far back as 1869, as I stated before, and some as late as 1872.

Q. Certificates have not been issued, either, for them?

A. The certificates of purchase?

Q. Yes, sir.

A. Not that I know of.

Q. I want to call your attention to the contracts that have been overloaded, or rather loaded, unloaded, and loaded again.

A. As to Mr. Hall's contract, No. 27, there has been re-reserved 6,714.13 acres. That was the amount reserved on the contract more than the amount of the contract.

Q. Any other contract?

A. Contract No. 28, 914.21 acres.

Q. Any other?

A. I have figured up no others. There has been some of the same reserves on the contract of T. Bathay, A. C. Maxwell, J. G. Owen, H. W. Sage & Co., and Green Pack. I have not figured up the amounts of those. The exact amount I cannot say.

Q. Then what I understand you to mean is, that reserves are made upon these contracts, and then these lands are disposed of, and taken in the same way and reserved again?

A. Yes, sir. That is it.

Q. Don't you think that in some of these cases where reserves are made, the first reserves are dropped after they are held for some time, and new reserves are made?

A. Well, I don't know of any such case now.

Q. Can you tell from the books, whether these re-reserves have been made,—whether the first reserves have all been patented or not?

A. No, not always. There has been some taken, from some cause or another.

Q. Can you tell what the cause is?

A. I cannot tell now, whether there has been any taken out of the market or transferred to some other credit, without looking it up. I think there has been some taken off and not transferred to some other credit.

Q. And not patented?

A. No, sir.

Q. Simply dropped?

A. Yes, sir.

Q. For the accommodation of the man that reserved it?

A. No, sir. I know in certain cases there has been a conflict about the land, and it was decided that the contractor could not hold the land, and it was erased from his contract and held on some other.

Q. What case?

A. I could not cite you to any particular case.

Q. You are not fully advised as to how, or why, this reserve is brought about,—what becomes of the first reserve?

A. No, sir. There are some cases I cannot tell what the reason was. I was simply ordered to throw them off, or something of that kind.

CROSS-EXAMINATION OF G. F. GILLAM.

Cross-examined by Mr. McGowan:

Question. Was it not a fact that, on the Hall contract, there were certain reservations made, that had appeared before that as reserved lands, on Obed Smith's contract?

Answer. Well, I should think quite likely that that might be the case. I do not recollect, now, about that.

Q. Do you not recollect there was a long list of lands that Obed Smith claimed he had a right to have reserved, and that Hall claimed and had reserved to him,—those he applied for last fall?

A. Yes, sir.

Q. In a case of that kind, in the settlement of a disputed claim between Hall and Smith, for instance, if Hall gave up the lands what would be the result as to his reserves, as appear upon his contract?

A. If Mr. Hall had to give up the land, it would relieve his contract.

Q. To the amount he had given up?

A. Yes, sir.

Q. That would not appear on the books as being patented?

A. No, sir, erased,—simply thrown out of his contract.

Q. Do you know of any land reserved on the contract that is simply erased and dropped for the accommodation of the contractor?

A. No, sir, I do not.

Q. Where they are erased or dropped without being patented, what are the usual causes of that?

A. Some conflicting claim, sometimes. I know a man will apply for a lot of lands in a town, and he will not get all the land he applies for, and then he will write back, in the course of a week, that he would not like any of the land in the town if he cannot have the whole, and in those cases it is regarded that where he applies for 1,000 acres, and he can only get 500, and he does not want any of it unless he can have all,—in such a case there might be such cause.

Q. Do parties ever apply for land which turn out to be government lands, never patented to the State?

A. Yes. sir. Some have to be erased on that account.

Q. Now of this land that was held on matured scrip,—this 33,688 acres. You say a part of it was matured back as far as 1869?

A. Yes, sir.

Q. Will you state why it was not patented up?

A. I see one to A. Pack & Co., for 240 acres. That was scrip matured August 10th, 1869, and it is still unpatented, and the land is not marked as being applied for, and S. M. Shurtleff previously had the descriptions.

Q. When did the most of that scrip mature,—within what time?

A. A great portion of it has matured since the first of last September.

Q. How long since the last of it matured?

A. The last I noticed is February 3, 1872.

Q. What amount matured at that time.

A. It says on F. Bathay's contract, it matured between December 29, 1871, and February 3, 1872,—the amount on the contract.

Q. Was it 33,868 acres, or dollars' worth?

A. It was acres. I will state, also, that I have known of parties writing and claiming there was a wrong description, or something of that kind,—some error; it was some other land they wanted, and not the particular land that the application called for. There have been some such cases as that.

Q. In those cases there would be an erasure, and other lands reserved, on another patent?

A. Yes, sir.

Q. With regard to these lands that are held on matured scrip,—you may state if you can what proportion of lands are held on matured scrip?

A. There would be a great deal more than this amount. I could not approximate very near it, without figuring it up.

Q. Do you know whether there are any contracts, where there is unmatured scrip, and no reservations?

A. Yes, sir.

Q. Has Mr. Hall any contracts, where there is unmatured scrip and no reservations on the contracts?

A. I think not.

Q. You think he has reserved to the full amount of his contracts?

A. Not to the full amount. I think there is a little due him on one contract, that is still unmatured. He has reserved some on the contract.

Q. I did not mean to ask you whether he had not reserved any,—whether there is not a large amount due him on contracts where he has made no reservations?

A. There is not a very large amount. He has only one contract now but what is matured, and there is a little due him.

Q. Upon that?

A. Yes, sir.

Q. Are there ether parties who have contracts, and are entitled to reserve lands there, who have not reserved them?

A. Yes, sir.

Q. To what amount, would you think?

A. I could not give any kind of estimate.

Q. Could you ascertain from the books?

A. Yes, sir.

Q. You would think that there was enough on this unmatured scrip on which no reservations had been made, to

cover all the matured scrip there is there in favor of any parties?

A. I do not know that I understand you exactly.

Q. Let me ask you the question in this way,—do you think there is unmatured scrip where there are no reservations, to the amount of 33,868 acres?

A. Yes, sir; I think there is a good deal more than that.

Q. Is it not a fact that those parties themselves, who held this land upon matured scrip, have unmatured scrip, where there has been no reservation as much as there is land there that they should patent?

A. I think not.

Q. Have they some unmatured scrip?

A. Many of them have.

Q. But you think the unmatured scrip, where there is no reservation made upon it, and no land held upon it, would be considerably more than the land stated there that is overdue?

Q. Yes, sir.

Q. Do you know whether there is any unmatured scrip in the Bathay contract where there are no reservations?

A. Yes, sir, there is now a credit on the Bathay contract in favor of Mr. Smith.

Q. Do you know whether there is any unmatured scrip and no reservations on Johnson's?

A. Yes, sir.

Q. What Johnson is that?

A. O. R. Johnson of Saugatuck; he has a large unmatured credit,—considerable anyway.

Q. Do you know to what amount?

A. I could not give the amount.

Q. You would think there was enough to hold this 33,000 acres.

A. Oh no, he cannot have any such credit as that.

Q. Is there enough to hold what is charged against him there as matured?

A. No, sir, there is not.

Q. How much is there on his matured that should be patented up?

A. It is 1,783.96 acres.

Q. You think there is not enough of the balance of his contract to hold that?

A. No, sir.

Q. How much should you think there was?

A. That I could not state.

Q. You could ascertain by looking the matter up?

A. If all his matured scrip was used to patent his lands, it would then leave the unmatured balance, of course. In figuring up the amount that he should patent, of course I filled up his unmatured balance, and this 1,793 acres is what we apply on the matured part, leaving his unmatured. Of course he has a right to have the unmatured part of his contract full, I suppose; I figured it in that way.

Q. Then this 1,700 and odd acres is all the land that Johnson has reserved?

A. No, sir; he has his unmatured credit full and this much over. He has more matured credit than enough to patent this number of acres. If he used all this matured credit and balanced up the land it would leave a large balance in his favor.

Q. He has sufficient matured balance to patent up all those lands?

A. Yes, sir; all this and more too.

Q. And has an unmatured balance, and has made no reservations?

A. No, sir; I did not figure it in that way. I figured the unmatured balance full. The unmatured part of his contract would be full and this much over.

Q. How many contracts had Johnson?

A. He has had some others besides this one that he is now at work at. How many more I cannot state.

Q. Do you know whether there are any contracts that have

been made that are not copied into your book from the files in the Road Commissioner's office.

A. There are some.

Q. Do you know to what extent?

A. I could not state how many. There are not a great many. I have looked up a good many and put on since I came in.

Q. I wish you would look that matter up.

A. I will

RE-EXAMINATION OF G. F. GILLAM.

By Mr. Manager Huston:

Question. Is it the practice in the office, where a party has a contract on unmatured scrip, as you call it, and has land reserved upon scrip that is matured, to allow him to change over his reservations that he has made upon matured scrip, to unmatured scrip, and sell his matured scrip?

A. I think that is the practice,—if a man has scrip matured to let him sell it, provided he has unmatured scrip enough.

Q. Suppose I have two contracts, and I have reservations on one of them, and the contract is completed,—I have reserved the contract full, and it is completed,—then it is matured scrip. Would I be permitted to sell that matured scrip, and change my reservations from that contract to the other one?

A. I don't recollect of any such case as that taking place while Edmonds has been Commissioner. A man reserves land on his contract, and it does not state what part of the contract. If he has scrip matured, as well as unmatured scrip enough to hold the land that he has reserved, my understanding of the custom is that he has leave to sell that matured scrip.

Q. Then he can have matured scrip and unmatured scrip on the same contract?

A. Yes, sir.

Q. As I understand it?

A. Yes, sir; the contract is paid in parcels, you know.

Q. Well then, it is the rule of the office, when he has reserved lands upon that part of his contract that he is to complete first, and he has completed it and his scrip has matured, to allow him to sell his scrip and change his reservation upon the balance of the contract that is unmatured?

A. I don't know whether I could tell you that a reservation is on any particular part of the contract. He reserves land on his contract, and it might be a question. I don't care to decide.

Q. He is allowed to share off his reservation on his contract for several years, in completing his contract?

A. Yes, sir; that is the way I understand it.

Q. Now, I understand you to say, if a man applies for a thousand acres of land, and he cannot get but five hundred of it, that you usually release him upon his application if he does not want the five hundred?

A. I have seen it done so; yes, sir.

Q. Now, when those applications are made, do you enter it upon your reservation-book,—when he applies for a thousand acres, do you enter that upon your reservation-book, or do you wait until he finds out whether he can get the lands, or not.

A. Well, I think it has been done.

Q. To wait?

A. Yes, sir, I think it has been done. I think there will be some such cases, where they have been put on the book,—reserved what he could get.

Q. Then men are permitted to apply for lands, and go to work and investigate and see whether they can get them or not, before they are entered upon the reservation book?

A. Yes, sir.

Q. And if they cannot get the full amount they apply for, then you release them upon the application?

A. Yes, sir. As a general thing, where there is any conflict, or any probability that they cannot hold the lands, they will not enter it upon the book until the parties are written to, or until it is stated to them that somebody else claimed them.

Q. Why can you not tell at the time the application is made whether he could get the lands or not?

A. You could tell.

Q. Could you not tell whether they were reserved upon other contracts?

A. Why, yes. I say that, for instance, a man who lived in Detroit writes here for a certain thousand acres of land in a certain township, and perhaps five hundred of it has been sold; the five hundred would be reserved that was not sold, and he would be notified that the remainder was sold and he could not get it.

Q. Suppose there was eight hundred acres that he could get, and two hundred sold?

A. Well, it would be the same.

Q. If he could not get the whole amount you took off, you did not hold him to the contract.

A. He would write right back in a few days that he wanted a thousand acres if he had any. There are some of these parties that live up here at Houghton and Ontonagon, and correspondence is a good while getting back and forth, especially in the winter.

Q. You say something about some of this amount of over, or re-reservations, arising from dropping the first reservation, and counsel called your attention to the application of Hall, made last fall upon the Bathay contract, or Smith. Now, is there any part of that 1,600 acres that Hall applied for last November, included in this overloading of his contract?

A. My recollection is that that application was not put on, it being a question.

Q. That is what I want to find out; is it not a fact, that although it was claimed that Mr. Hall applied on the 24th day of November for this land of Smith, and is it not a fact that it never was entered upon the reservation-book against Mr. Hall?

A. I think not.

Q. You think it was not entered?

A. No. It was in doubt whether he could hold them, and the order was held until the matter was decided.

Q. Is it not a fact that the claim which was set up in the office to Mr. Ripley's reservation of Smith's lands, was never entered upon the reservation books?

A. No; there was some of it entered.

Q. What proportion of it?

A. There was a few descriptions that he finally insisted upon holding. He released some, and wrote down a second letter that he would release all but certain descriptions. They were put on to the book. I think the book will show.

Q. I wish you would look and see.

A. When he finally insisted on the land, we put it on the book.

Q. Then you say the reason that Mr. Edmonds did not have the reservation of Mr. Hall, on the 24th of November, put upon the reservation-book, that they were in doubt whether he could hold the land?

A. Yes, sir.

Q. What was the date?

A. Smith claimed the land and wanted a hearing.

Q. Yes, sir; but the 24th of November was before the 29th, when Mr. Smith came here, according to the testimony which shows that Mr. Smith was here the 29th, and it was claimed that they were reserved to Mr. Hall the 24th?

A. Well, the application was not put on the books, at all events. I do not know whether it was handed to me or not, up to that date. Mr. Barnard hands him the applications.

Q. Do you not know, as a matter of fact, that that was an attempt, on the part of Mr. Barnard, to get those lands from Mr. Smith, when he knew that Mr. Smith was entitled to them.

A. No, sir; I do not.

Q. You do not know how that was?

A. No, sir; I do not know anything about it. I could not state.

RE-CROSS-EXAMINATION OF G. F. GILLAM.

Cross-examined by Mr. McGowan:

Question. Do you know how Mr. Ripley got his list of Smith's over-reservations?

Answer. Yes, sir; I furnished it to him.

Q. You furnished it to him?

A. Yes, sir.

Q. Was he there at the office?

A. Yes, sir.

Q. How did you come to furnish him that list?

A. He was in the office one day inquiring about the lands in a certain town, and some lands in that town were reserved to Mr. Smith. I spoke and said that I thought Smith was trying to hold more lands than he could cover, that is, his contracts appeared that way, and he wanted to know right away how it did stand, and what the apparent over-reservation was, and I showed him and gave him a statement of the amount, that appeared to be, I think, about $2,200 of over-reservation. I gave him a list of land of some 1,600 acres at the last end of the reservation, and he said he should, perhaps, apply for them; he would make some further inquiries, and he went off home, and in a few days he sent back an application for these same lands.

Q. Counsel has asked you with regard to a contract being overloaded,—what do you mean by that?

A. Well, being re-reservations.

Q. These re-reservations you refer to, the same as has been before?

A. The land has been abandoned or taken off, from some cause, and then other lands reserved.

Q. You do not mean by that that Mr. Hall had more reserved on his contract than the contract allowed him?

A. No, sir.

Q. He had made reservations until the contract was full, and then these lands had been abandoned or dropped for some reason, as you explained before?

A. Yes, sir.

Q. And then he can reserve up to the amount of his contract?

A. Yes, sir.

Q. But he never held, under that contract, more lands than the contract called for?

The Presiding Officer—The Senator from the Twenty-fifth (Mr. Waterbury) sends up the following question:

The Secretary read the question, as follows:

"Can a man apply for all the lands in a township, and have them reserved, and then go and look the land and take what he finds good, and then have the rest dropped or rubbed off the book?"

A. He cannot.

Q. You illustrated the principle involved in the question, by a man writing you from Detroit, applying for a thousand acres of land, and you find that five hundred of it is vacant, and you mark the five hundred and inform him. If he should then write back, and inform you that he only applied simply for the thousand, and if he could not have that he did not want any, you would rub out those marks?

A. Yes, sir.

Q. Is that what you mean, and all you mean, when you say that lands are applied for in that way, and then dropped when the party don't want them?

A. Yes, sir.

Q. You said something about single contracts maturing in parts or parcels,—what are the facts in regard to that?

A. When a board meets,—they meet every month,—these contractors come in with certain allowances, that they have had allowed them on their contracts, and they get a credit allowed them, called a warrant in the Land Office.

Q. Then that warrant represents so much matured scrip on that contract?

A. On that contract; yes, sir.

Q. Counsel asked you if his reservations were shoved off until the last of the contract?

A. Well, it is usual. For instance, a man has, we will say, a ten-thousand-dollar contract, and a payment of two thousand dollars, and he has got six thousand acres of land. He is allowed to sell that two-thousand-dollar warrant, and the lands would be reserved on the balance.

Q. The lands remain reserved on the unmatured part of the contract? In that case he must have enough of unmatured scrip to hold the land, must he not?

A. Yes, sir.

Q. Now, do you state that that is a custom in the office, or as a matter of law?

A. I state that I think that is a custom. I think that would be the way it would be done.

Q. Do you not understand that the law allows him to reserve as long as he has any unmatured scrip?

A. I think it is right, myself.

Q. To the amount of his unmatured scrip?

A. Yes, sir.

Q. Does not the law provide for partial acceptances of these contracts?

A. I don't know as I can state how the law does read.

Q. You take these acceptances and warrants when they come?

A. Yes, sir.

Q. Consider them so much matured scrip on that contract?

A. Yes, sir.

RE-DIRECT EXAMINATION OF G. F. GILLAM.

Examined by Mr. Manager Huston:

Question. When it was claimed that Ripley applied for the Smith lands, did he have any unmatured scrip?

Answer. Yes, sir, he did.

Q. Did he have sufficient to cover the amount of land applied for?

A. No, sir, he did not.

Q. Then he had the purpose to have this land held for him, if he did not have the scrip?

A. The order states something about their being held a few days.

Q. State how he came to make that arrangement.

A. The order is on file, I suppose.

By Mr. McGowan:

Question. What is the fact,—were they held by him?

Answer. No, sir, not to my knowledge.

By Mr. Manager Cochrane:

Question. I would like to ask one question. I want to ask if this rule, with reference to applications,—where a party applies for more land than he receives,—is generally known; whether it is a rule of the office?

A. I do not know whether it is generally known or not.

Q. Under the application of the rule, let me ask whether it is not possible for land-dealers to apply for all the lands in a township which are for sale in the office, and by putting in a few descriptions which he knows he cannot get, obtain time until he can go and look at that land and see what he does want, whether he wants to buy that,—whether by that rule that cannot be done?

A. If that was known to be the custom, it might be abused somewhat. A man would be pretty apt to be detected if he undertook to abuse it.

Q. Do you know of any custom of this office that these land-dealers do not abuse, if they can?

A. They are pretty sharp,—some of them.

Q. It would be possible for a man to make an application for his own benefit in that way.

A. Yes, I think it would be.

Q. How do you treat a man who abuses a rule of the office, when you catch him at it. Have you any rule about that?

A. I do not know about that.

Q. Do you rely upon him afterwards?

A. Well, I should think not; no sir, as near as I can—

Mr. Manager Cochrane—That is all.

Mr. McGowan—Finish your sentence if you choose to?

Answer. I do not know of anybody being shown any favors after they are abused.

Mr. Manager Cochrane—Do you show any peculiar favors before they are abused?

A. No, sir; I do not know of any being shown any.

RE-CROSS-EXAMINATION OF G. F. GILLAM.

Examined by Mr. McGowan:

Question. Either the Manager or myself has misunderstood you, in reference to a man applying for a certain quantity of land and having it held, until he could examine it?

Answer. I did not mean to be understood in that way.

Q. Suppose the man called for one thousand acres of land, and five hundred are vacant, you mark that and notify him, and before he responds as to that five hundred acres, suppose somebody else applies for that five hundred, what would be the practice of the office then?

A. If he did not hold the land, it would be the other party's, I suppose. When the question was asked, I recollected one instance. I do not recollect of but one instance. Mr. Pond of Detroit, applied for a great portion of land in the Upper Peninsula, and a part was held by Mr. Preston, and he wrote back in a few days that he did not want the land unless he could have the whole. I think there were three or four days intervening.

Q. He applied for a specific amount?

A. Yes, sir.

Q. You only found a part vacant?

A. Yes, sir.

Q. He wrote back, if he could not have what he applied for he did not want it?

A. Yes, sir.

Q. Any other instance?

A. I don't recollect of any other.

Q. The vacant part was applied to him?

A. Yes, sir.

Q. How?

A. Marked as being applied to him on a certain credit in the office.

Q. In the case you mentioned, and the only one you recollect of,—that of Francis Pond,—was there any record made of the reservation excepting checking them on the plat-books?

A. I cannot tell whether it was on the reservation-book or not. When Mr. Barnard handed me an application, it was usual to put it on the book, unless he would make some statement that perhaps the reservation would not be good,—to hold it until something was determined. I do not recollect whether, in this case, it was put on the book or not.

Q. Do you know enough about it to say what the rule of the office was?—whether there is any such rule?

A. I have no knowledge of any others now. I do not mind any others now. There might be others I might remember, if my attention was called to it.

VAN DUNHAM, RECALLED.

Examined by Mr. Manager Grosvenor:

Question. Did you go with the Commissioner to Grand Ledge, to that party?

Answer. I went to Grand Ledge, but not exactly with the Commissioner.

Q. But with the party?

A. Yes, I was with the party.

Q. When was that?

A. I could not give you the time; I paid no attention to it.

Q. About the time?

A. It was last fall,—during the past fall.

Q. Who were of the party?

A. I don't know that I can give you all the names. I can name a portion:—The Commissioner, Mr. Barnard, Mr. Bowen, Mr. Turner, Mr. Griswold, Mr. Burdick, Mr. Stimpson, and, I presume, others, besides a number of ladies.

Q. Was there any drinking while you were there?

A. I think there was some drinking; yes, sir.

Q. What were they drinking?

A. I don't know as I could tell you. I think water, principally.

Q. Was there not something else drank,—wine?

A. I think I drank something else.

Q. Do you know whether the Commissioner drank anything else?

A. I don't know that he did.

Q. Did you see him drink water?

A. I think I saw him drink water.

Q. Did he drink anything else?

A. I don't know that he did.

Q. Did he drink anything with the water?

A. I don't know that he did.

Q. What makes you sure that he drank water?

A. Well, I would not swear that he drank water, but I think very likely that he did. It was a very warm day, and I am quite sure we all drank water.

Q. You don't state that from recollection?

A. I think it would be very strange if we did not.

The Presiding Officer—The question the Honorable Manager asked you, is what you recollect, not what you think.

Answer. I don't recollect of our drinking anything but water.

Q. Did he drink water?

A. I cannot say positive that I saw him drink water.

Q. Had any of the parties been drinking spirits or liquor, to excess?

A. I don't know that I know what you would call excess.

Q. Drinking so as to be under the influence of liquor?

A. I don't think they were.

Q. Were you?

A. I don't think I was.

Q. Are you in the habit of being so?

A. I don't know that I am in the habit of being so.

Q. Are you not frequently in that condition?

A. Perhaps not frequently; no.

Q. Have you not been fined in this city for being drunk publicly on the streets?

A. No, sir; I don't know that I have.

Q. Were you fined under the ordinance of the city?

A. I think I was; yes, sir.

Q. What for?

Mr. Shipman—We object to that question, also to this line of questioning. It does not seem to us to be proper. This witness has the right to the ordinary protection of a witness upon the stand, and to go into his private life outside of any time when the Commissioner was with him, I think is not material. It may be, but I don't think it is.

Mr. Manager Grosvenor—It is one of the charges, that he employed such clerks.

Mr. Shipman—That "he did it for the purposes of gain." I submit, if you wish to show anything of that kind, whether it should not be shown by some other witness; that the witness himself has a right to personal protection on the stand; and that you cannot ask the witness a question that will either criminate or bring him into reproach.

The Presiding Officer—I will ask the counsel if the witness should not ask for that protection himself?

Mr. Shipman—He has right to; but what I say is this: These things that took place when the Commissioner was not present, are things which he ought not to be held answerable for.

Mr. Manager Coehrane—You do not deny but that he can

answer the question as to whether he has been convicted of drunkenness.

Mr. Shipman—We may do so. We may impeach the witness, but you cannot impeach your own witnesses.

Mr. Manager Cochrane—We do not propose to impeach him, but suppose we would ask him if he has been convicted of larceny,—could we not ask that?

Mr. Shipman—I ask for what purpose it is done,—to discredit the witness?

Mr. Manager Cochrane—To show that he is a dissolute witness. We shall leave it to the Court to say whether or not he is a dissolute witness.

Mr. Shipman—If he is a dissolute witness they should not have put him upon the stand.

Mr. Manager Cochrane—A dissolute clerk.

Mr. Manager Grosvenor—A dissolute man,—a man of dissolute habits, is the charge.

Mr. Shipman—If he is a dissolute witness it is one thing; if he is a dissolute clerk, that is another, The case should be such as the Commissioner had notice of, or such as transpired in his presence,—when he was a party; but acts outside, remote from him, that he did not know of,—unless they propose to bring it directly to his notice,—I submit ought not to be given in evidence.

Mr. Manager Grosvenor—We propose, of course, to bring it to his knowledge.

The Presiding Officer—Under the rules already established by the Senate, I will allow the question to be put.

By Mr. Manager Grosvenor:

Question. Will you state whether you were fined for misconduct?

Answer. Yes, sir.

Q. What was it for?

A. You stated; for misconduct; disorderly conduct, I believe it was.

Q. What was the charge?

A. I don't know that I can tell you exactly what it was.

Q. What was the particular offense?

A. The particular offense, I believe, was for tearing up a fence.

Q. In the day-time?

A. No, sir, I think it was in the night.

Q. Were you in a state of intoxication when you did it?

A. I presume likely. I had been drinking some.

Q. Had you not been drinking to such an extent as not to know very well what you were about?

A. I think I had a distinct recollection of doing it, afterwards.

Q. Did you know at the time you were doing it?

A. I think I did. Yes, sir.

Q. Who was with you when you did it?

A. I would prefer not to answer the question?

Q. Who was with you at the time?

A. Am I obliged to answer the question.

The Presiding Officer—Unless it will form a link in the chain of evidence that would convict you of some crime.

Witness—I don't care to bring up the party that is not any way interested in the matter.

The Presiding Officer—That is not a privilege which you can claim the advantage of. If the testimony would form a link in a chain of evidence that would tend to convict you of some crime, you can claim your privilege, otherwise not.

By Mr. Manager Grosvenor:

Question. I would inquire whether it was any man employed in the Land Office?

Answer. No, sir, it was not.

The Presiding Officer—Then it would be immaterial.

By Mr. Manager Grosvenor:

Question. Was it anybody engaged in the Land Office?

Answer. A person, I think, who never was engaged in the Land Office.

Q. Have you been under the influence of liquor at any other time since you have been a clerk in the Land Office?

A. I do not know that I remember of any other occasion.

Q. Were you at the Lansing House with the Commmissioner and Mr. Clarke in the Land Office?

A. I think I been have there on several occasions with the Commissioner.

Q. Engaged in drinking and playing cards?

A. I remember one occasion of playing cards.

Q. And drinking?

A. Drinking.

Q. When was that?

A. I don't remember the time.

Q. Last August or September?

A. I cannot say as to the month; I presume it was about that time.

Q. Who were present, forming that party?

A. The Commissioner, Mr. Clarke, and, I think, Mr. Robinson.

Q. In whose room?

A. I could not tell in whose room it was.

Q. Can you tell whether it was the Commissioner's room, or Mr. Clarke's room?

A. I could not state. My impression is, that it was in Mr. Clarke's room.

Q. Who invited you there?

A. I think Mr. Clark.

Q. What was the object in going there?

A. To spend the evening, perhaps to play cards,—I do not remember.

Q. Was there any drinking done there?

A. I think there was some wine drank.

Q. How many bottles?

A. I could not say,—I do not know that there was more than one.

Q. Was not there more than one apiece drank?

A. I do not think there was.

Q. Did you pay for any?

A. I do not remember. I presume very likely I did.

Q. Do you know whether the Commissioner did?

A. I do not know.

Q. Did the Commissioner drink any?

A. I think he did.

Q. Take his share with the rest of you?

A. I think he drank occasionally.

Q. What time did you leave there?

A. I could not tell you.

Q. Why cannot you tell?

A. Because I do not remember; I do not know that I noticed at the time.

Q. Did you all go away at the same time?

A. I do not know that I remember that. My impression is that we did, though.

Q. Do you remember being in the street together?

A. I remember going down to the office together. I think we separated when we went out of the office.

Q. The office of the hotel, do you mean?

A. The hotel office.

Q. Where did you leave the Commissioner that night?

A. I would not be positive, but my impression is that we left him there.

Q. Had he not been drinking to excess that night?

A. I do not think he had.

Q. Had Mr. Clarke?

A. I do not remember that he had.

Q. Did Mr. Johnson?

A. I think not.

Q. You say you drank but one bottle?

A. I did not say so. I did not intend to be understood so.

I meant to have said, how many bottles were drunk. I could not say as to that.

Q. You said about one bottle.

A. I know we had a bottle there, and drank.

Q. Do you not remember that you had more than one?

A. I think we had only one.

Q. Upon that occasion?

A. Yes, sir.

Q. Were you there upon any other occasion with the same persons?

A. I think not.

Q. Or with the Commissioner?

A. I do not remember any occasion of being with the Commissioner in any rooms of the house. I perhaps have met him in the office of the hotel.

Q. Do you remember going away with Clarke to get some cigars after you came down from the room?

A. No, sir, I do not remember it now. I might have done so.

By the Presiding Officer:

Question. Was that one bottle filled more than once?

Answer. I would not be certain about that. It might have been.

By Mr. Manager Cochrane:

Question. How large a bottle was it?

Answer. I think, perhaps, it would hold a quart.

By Mr. Manager Grosvenor:

Question. What was it filled with?

Answer. I think they called it wine.

Q. What kind of wine?

A. I would not be positive; my remembrance is that it was Catawba.

Q. Not champagne?

A. I think not.

Q. Where did you go after you left the Lansing House that night?

A. I think I went home and went to bed.

Q. Who went with you?

A. I could not say whether I went alone or not. I do not remember. Mr. Bowen, I think, was rooming with me at that time. I presume we went together.

Q. Did you go away with Mr. Clarke that evening, on a walk?

A. I am not positive; I could not say for certain that I did go.

Q. Were you at the Chapman House at any time when Captain Edmonds was there?

A. Yes, sir, I was there frequently with him. I think I was boarding there at the time he was boarding there.

Q. Were you there at one time upon the occasion of a wedding party?

A. Upon an occasion shortly after a wedding.

Q. You remember distinctly being there?

A. I do.

Q. Was the respondent there?

A. I think he was there.

Q. Any other persons connected with the Land Office there, besides yourself and Edmonds?

A. I think so.

Q. Who?

A. I think Mr. Bowen was there, and Mr. Griswold,—perhaps others.

Q. Do you rember whether Clarke was there?

A. My impression is that Clarke was not there.

Q. Was there any drinking there that night?

A. I think there was some drinking there.

Q. Had you been drinking yourself?

A. I think I had.

Q. What did you drink?

A. I think nothing but champagne.

Q. Did you drink to excess?

A. I drank a number of times.

Q. Did you become intoxicated with drinking?

A. My impression is that I got to feeling pretty good, that night.

Q. How was it with the Commissioner,—did he drink?

A. I think the Commissioner drank.

Q. Did he drink to excess that night?

A. I do not think that he did.

Q. You knew he was there?

A. Yes, sir.

Q. Did you see him drink more than once?

A. Yes, sir, I think I saw him drink more than once.

Q. How often?

A. I could not tell you how many times,—only a few times, though.

Q. Were you, with the Commissioner, at any other time, engaged in drinking, except at the Lansing House and the Chapman House,—these two instances you have named?

A. I do not remember any other occasions.

Q. Do you say there were no other occasions you were with him?

A. I say I do not remember of any other occasions where we were drinking.

Q. What is your best recollection,—that these are the only two instances that you were drinking with him?

A. I think, perhaps, I might have done so; I do not recollect the occasions now.

Q. Was it a matter of frequent occurrence?

A. Not a very frequent occurrence.

Q. Can you remember being with him and drinking at the Lansing House but once?

A. I remember meeting him a number of times at the Lansing House, and perhaps I might have drank with him?

Q. Play cards and drink in the room?

A. I only remember of it on one occasion.

Q. You board at the Lansing House?

A. I never boarded there.

Q. You had a room at that time?

A. I think I was boarding at the private house of Mr. Moore.

Q. Did you board at the Chapman House, ever?

A. Previous to that.

Q. Did you not drink rum and molasses with the Commissioner?

A. I do not remember. I think very likely we did not. I am not in the habit of drinking rum and molasses.

Q. Did you not state so, in your testimony before the committee?

A. No, sir, I did not,—I am positive I did not.

Q. Do you say you were not drinking rum and molasses in your room, and playing pitch, when the Commissioner was there, until a very late hour?

A. I say I think it very likely we were not. I do not remember of ever drinking any rum and molasses.

Q. Drinking any intoxicating drink, and playing pitch there?

A. If we were drinking anything, it was probably wine.

Q. Do you remember of being with him until a late hour in your room, playing pitch and drinking something besides water?

A. I think I do remember of his being in our room playing pitch and drinking.

Q. At another time, then, than the two you have named?

A. Yes, sir.

Q. Was not that a frequent occurrence between you and the Commissioner?

A. I don't think it was a frequent occurrence; no, sir.

Q. Did it not occur as often as once a week?

A. I don't think it did.

Q. Once a month?

A. I hardly think it occurred as often as once a month.

Q. Once in six months?

A. I don't think it has occurred in the past six months.

CROSS-EXAMINATION OF VAN DUNHAM.

Cross-examined by Mr. McGowan:

Question. Were you fined more than once?

Answer. No, sir.

Q. Can you fix about the time?

A. I don't know that I can without refreshing my memory.

Q. Somewhere near?

A. I think it was during the past winter.

Q. Was it on a trial or on a plea?

A. It was on a plea, no trial.

JAMES H. BAKER, RECALLED.

Examined by Mr. Manager Grosvenor:

Question. Will you state where you have seen Commissioner Edmonds under the influence of liquor, since July last, in this city?

Answer. I could not say positive as to July.

Q. Since that time?

A. I understand you. I say, I could not say positive; I can't remember the date at the Chapman House,—whether it was the first of July or after. It was sometime last season.

Q. Well, at the Chapman House, then?

A. I saw him at the Chapman House occurrence,—the occasion spoken of,—there.

Q. What occasion was that?

A. It was the occasion of Mr. Conkling returning from a wedding tour.

Q. What do you say in regard to his drinking?

A. I was requested by the mayor to require places to shut up at ten o'clock, and I went down to the Chapman House and found a party in a room drinking.

Q. Who were they?

A. Commissioner Edmonds was one, Mr. Bowen was one, I think Mr. Van Dunham, and I think Mr. Quigley was there. Mr. Conkling was behind the counter with the clerk. Mr.

Hotaling was one of the parties, and some others whose names I can't remember.

Q. Was Griswold there?

A. Yes, sir; Mr. Griswold was there. I went into the room and was introduced to the Commissioner. He took me by the collar and says. "Never mind the preliminaries," or something of that kind; "Come up and take a drink." I first revolted, by saying that I didn't want anything, or something of that kind. He insisted upon my drinking, and I went with him to the bar and drank some champagne. I left the Chapman House a few minutes after, and returned again soon afterwards; they were still there, and I think at that time there were two or three who insisted upon my drinking, and I took some champagne again, and I turned and went away from the Chapman House, and returned the third time; and as I stepped in, I think it was Mr. Thomas Marshall came up to me and tapped me in a familiar sort of a way on my left shoulder and called me by my given name, saying, "It is all right now, we have got Mr. Edmonds' to bed," and intimated to me that the noise was all quiet. It was then quite late,—nearly twelve o'clock.

Q. What was his condition, as to being under the influence of liquor, at the time you first went there?

A. Well, sir, he was so he could walk around. He was very much excited,—under a good deal of excitement, caused, in my opinion, from the influence of the champagne they had been drinking, or was drinking.

Q. How was it the second time?

A. Still more so.

Q. How was it the third time?

A. I can't say that I got my eyes on him the third time. He was there. I saw a party that had his appearance, and some one with him at the head of the stairs, going up stairs. I stepped into the hall. I could not swear, positively, that it was Capt. Edmonds, but I believe it was.

Q. The second time you saw him,—state what was his conduct as to being boisterous or noisy, or stupid and still?

A. He was noisy and boisterous, with the others. He was not alone; there were others in the same way.

Q. How was it with his clerks?

A. There were two of them that I should say were in about the same condition he was.

Q. Van Dunham one of them?

A. Yes, sir.

Q. Who was the other?

A. Mr. Griswold.

Q. What do you mean by "condition?"

A. I mean to say, that in my best judgment they were under the influence of liquor; so much so that they were almost uncontrollable. I took Mr. Griswold into the hall and talked with him. He wanted to know if I was going to lock him up. I told him, "No; I don't want to lock any of you up, but we must have less noise." And says he, "If you are not going to lock me up, let me go,—let me alone." I talked to him a few minutes and let him go, and as he got away from me he rushed back into the other room again.

Q. Were they making much noise there?

A. You could hear it out in the middle of the street,—across the street, I presume.

Q. What were they engaged in besides drinking?

A. Drinking, smoking, talking, and laughing.

Q. How late was it when you went back the second time?

A. Well, sir, it was between ten and twelve,—I could not say.

Q. How late was it when you went the last time?

A. Very near twelve o'clock.

Q. Did you see the Commissioner at any other time when he was under the influence of liquor?

A. I never did.

A. Have you seen Van Dunham drunk at any other time?

A. Yes, sir.

Q. When, and where?

A. I could not state the time and place particularly. I have seen him under the influence of liquor at other times.

Q. In the daytime?

A. Yes, sir.

Q. Has it been a habit, a matter of common occurrence, or not?

A. Well, it is a frequent occurrence for him to drink and get somewhat excited, under the influence; but it is not frequent for him to get drunk,—what I would term drunk.

Q. Did you ever see Mr. Clarke.

A. On one occasion.

Q. When?

A. One night sometime last fall.

Q. Where was it?

A. It was on the corner of Washington and Michigan avenues.

Q. In this city?

A. Yes, sir.

Q. Who was with him;

A. Two strangers.

Q. What was his condition then?

A. He, in company with one of the strangers, was taking grindstones from the front of one of the hardware stores and rolling them out into the street.

Q. Ever seen Griswold drunk?

A. I can't say as I ever did, except at the Chapman House,—that is, what I would call drunk.

Q. Well, seen him when he has been drinking so as to be noisy and troublesome?

A. He don't get noisy. I have seen him when I thought he was under the influence of liquor. He is not a noisy man.

Q. Do you know Alice McCabe of this city.

A. I do; yes, sir.

Q. What is her character,—what kind of a house does she keep?

A. The reputation of it is bad.

Q. A house of ill-fame?

A. Yes, sir.

Q. Notoriously so?

A. It is; yes, sir.

Q. Will you state whether you have ever seen the respondent or his clerks at that house, or going and coming, or either?

A. Sometime, I think, in the early part of September last, I saw a party whom I call the respondent, accompanied by another gentleman, leaving the house. I saw him when he came out of the house, as he passed out of the gate up the sidewalk.

Q. Have you any doubt of its being the respondent?

A. I had not any doubt at the time; no, sir.

Q. Have you now?

A. I have not, in my own mind. A gentleman was with me at the time, and I told him—

Q. Who was with you when you saw him?

A. The under-sheriff of Eaton county.

Q. At what time in the night was that?

A. It was before 12 o'clock, but I could not state what time; it might have been half-past 10, and might have been as late as 11.

Q. How came you to be there at that time of night?

A. The under-sheriff was here looking for a party whom he had a warrant for, and I was with him. We had been to other places and were about loking through that part of the city.

Q. Had you been watching that house?

A. No, sir.

Q. Had you any suspicion that the party you desired to find was there?

A. We calculated to visit there to find out whether he was thereor not.

Q. Was the person that was with the Commissioner at that time a person employed in the Land Office?

A. I supposed it was. I then stated to the officer who was with me—

Mr. McGowan—We don't care what you said to him.

Question. Who did you believe that to be at the time?

Answer. I believed it to be Mr. Griswold.

Q. Do you believe so now?

A. I do.

Q. Did you ever see him in the house yourself,—see the Commissioner?

A. I never did.

Q. Did you ever see the Commissioner on any other occasion, —except at the Chapman House, when you thought he was under the influence of liquor?

A. I never did.

The Presiding Officer—It is nearly twelve o'clock. The Senate sitting under a Court of Impeachment, will take a recess until two o'clock this afternoon.

—

Lansing, Monday P. M., April 13, 1872.

The Senate met, and was called to order by the President *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

The Presiding Officer—The Honorable Managers will proceed with the testimony in support of the articles of impeachment.

CROSS-EXAMINATION OF J. H. BAKER, RESUMED.

Cross-examined by Mr. McGowan:

Question. Do you live in Lansing?

Answer. Yes, sir.

Q. How long have you lived here?

A. Twenty-two or twenty-three years?

Q. What is your business?

A. I am deputy sheriff.

Q. When were you made deputy sheriff?

A. January, 1871.

Q. Are you policeman also?

A. I have acted as such.

Q. Are you regular policeman?

A. I am not, any further than by virtue of the office.

Q. Virtue of being deputy sheriff?

A. Yes, sir.

Q. Are you constable?

A. No further than by virtue of the office.

Q. What was your employment previous to your being made depuy sheriff.

A. Just previous to that I was in the manufacture of chairs.

Q. How long were you in that business?

A I have been connected with it, directly and indirectly, for a number of years. My father was a chair man.

Q. Were you, during the late war, in the service?

A. I was.

Q. How long were you in the service?

A. Between two and three years.

Q. When did you leave the service?

A. I cannot tell you exactly without going home.

Q. About when,—along in 1864?

A. I was thinking what the date of the engagement was. I will tell you in a minute. I am not positive,—I think it was in 1864. I think I left the service and came to Lansing sometime in June, 1864.

Q. What did you go into then?

A. I went into manufacturing chairs.

Q. Continued off and on until you were made deputy?

A. No, sir. I was in the Reform School as an overseer, and as assistant superintendent, and acting superintendent.

Q. When did you leave the service of the Reform School?

A. In the fall of 1866.

Q. Now, when was it that you were present at the Chapman House, that you refer to in your testimony?

A. I cannot tell the month. It was sometime last season.

Q. What was the occasion.

A. It was the occasion, as near as I could understand, of Jesse Conkling having got married, and returned home,—a sort of jubilee.

Q. Did you say it was on or about the month of July?

A. I did not. I said I could not say positively, to place it; and I said I could not state it. It was sometime last season.

Q. Do you not remember it was last spring, instead of last summer?

A. I do not remember it.

Q. Was it not as early as last May?

A. My best recollection would say not,—it might have been.

Q. Is not it your best recollection that it was previous to July?

A. My own judgment is that it was not.

Q. It was after the first of July?

A. I am not positive. It was sometime during the summer, or sometime during warm weather,—it was sometime when the warmest was over.

Q. You were requested by the mayor to see that places were shut up?

A. No, sir.

Q. What was the request?

A. The mayor requested me to look after certain violations of ordinances, and report to him.

Q. Requested you?

A. Violation of the ordinance of keeping open saloons and such things, after ten o'clock at night.

Q. The ordinance forbidding saloons and such places being open after ten o'clock?

A. Yes, sir.

Q. Was the Chapman House one of such places?

A. The Chapman House bar was a place of that kind.

Q. You were looking after that?

A. I was looking for what I happened to see.

Q. You were not specially following the orders of the mayor at that time?

A. Not any more than any other evening.

Q. Were you following the directions of the mayor during the evening, right along at that time?

A. I was, right along; not directions exactly, but requests.

Q. Who was the mayor?

A. John Robson.

Q. When did he make that request to you?

A. Sometime last spring,—I cannot state when.

Q. During the spring?

A. Yes, sir.

Q. Had you been in that business from that time up to the time you were at the Chapman House, referred to?

A. I had been acting as deputy sheriff.

Q. Had you been watching this place concerning the violation of that ordinance?

A. I cannot say that I watched them particularly; but whenever I was about in the evening, and saw anything of that kind,—carousing and noise,—my attention was called to it. I acted by his request, and by virtue of my office as deputy-sheriff, and policeman, looking after that kind of disturbance.

Q. What action did you take whenever you found any one making sufficient noise to cause their arrest?

A. I arrested them.

Q. You did not shut up the place?

A. I notified the parties that it was after ten o'clock.

Q. Did you notify the parties at the Chapman House?

A. They notified themselves,—they spoke to me about it.

Q. Who do you mean by they?

A. Jesse Conkling; and Marshall also was there,—he boarded there,—interested themselves in their behalf.

Q. Was that the first time you were there, that Conkling told you they were going to shut up?

A. I cannot say whether it was the first or second time.

Q. What is your best recollection with regard to that?

A. It is hard to tell.

Q. Why is it hard to tell?

A. Because the conversation happened the first, and might have happened the second time.

Q. It might have happened the third?

A. No, sir; I did not see him the third time.

Q. Where was Conkling, when he told you that?

A. In the bar-room.

Q. Was he back of the bar?

A. Yes, sir.

Q. Any one else back of the bar at that time?

A. Yes, sir.

Q. Who?

A. The bar-tender.

Q. Was there any one else in the bar-room when he told you that?

A. Yes, sir.

Q. Where were you standing when Jesse Conkling told you he was going to shut up pretty soon?

A. Near the water-tank.

Q. How far from the bar?

A. The water-tank sat on the bar.

Q. Any one else near the bar?

A. There was a crowd in the bar-room. They could not have been a great ways from it.

Q. Do you recollect if any one else was near the bar, and if so, who?

A. I do not recollect, specially, who stood by me.

Q. Who was in the room at that time?

A. There were a number. I think Van Dunham, Mr. Edmonds, Mr. Conkling, Mr. Hotaling, and Mr. Griswold. I could not say positively whether these gentlemen were all in the room, exactly. I met those gentlemen there during the evening.

Q. Was Tom Marshall there at that time Marshall told you that?

A. I cannot say whether he was in the room or not. I met him in the hall.

Q. Was Mr. Daniels there at that time?

A. I saw him there during the evening.

Q. You do not know whether he was there at that time?

A. No, sir.

Q. What were you doing at the bar?

A. Taking a glass of water.

Q. Had you been taking a glass of anything else?

A. When I first went into the room I took a part of a glass of champagne.

Q. How long after drinking the champagne was it Conkling told you this?

A. It could not have been but a moment.

Q. You took the water immediately after the champagne?

A. Yes, sir.

Q. Do you recollect now, whether that was the first or second time you were there that night?

A. I cannot recollect positively. I took a little champagne both times,—the first and second.

Q. You took a little each time?

A. Yes, sir.

Q. Was it champagne?

A. I am not a judge of liquors; they called it champagne.

Q. Did they have any other liquors there that night?

A. I did not see anything else.

Q. Do you know whether they had?

A. Not to my knowledge.

Q. Do you know Gottlieb Straub?

A. I do.

Q. Did you see him there?

A. I have no recollection of it.

Q. Did you drink more than once the first time you were there?

A. No, sir.

Q. What time was it you were there the first time?

A. To the best of my recollection it was about ten o'clock.

Q. Was that the time Conkling told you he was going to close up pretty soon?

A. I am not positive.

Q. Where did you go when you went away that time?

A. I walked up the street,—up near the corner.

Q. Where else?

A. I am not positive whether I went to the lock-up or not. I went up the street, and soon after I walked back.

Q. Did you go away alone?

A. Yes, sir.

Q. Did you do this walking about alone?

A. Yes, sir.

Q. If you went to the lock-up, did you go there alone?

A. I did.

Q. You do not know whether you went to the lock-up, or not?

A. I am not positive that I walked around that way.

Q. How long did you stay there the first time you were there?

A. A few minutes.

Q. How long?

A. It may have been ten minutes.

Q. May it not have been fifteen or twenty?

A. No, sir.

Q. How long were you away before you returned?

A. Half to three-quarters of an hour.

Q. When you came back you took another drink?

A. Yes, sir.

Q. Which time did Edmonds take you up to the bar?

A. The first time.

Q. You say you kind of protested at that time?

A. Yes, sir.

Q. Revolted, as you call it?

A. Yes, sir.

Q. How hard did you revolt?

A. He had hold of me on one side and some one else on the other side and they proposed to pour it down me; I told them I would drink it if they would let me alone, and I drank part of it and poured the rest out on the floor.

Q. You only drank once at that time?

A. That is all.

Q. When you came back, whom did you drink with?

A. With the crowd.

Q. Nobody dragged you up?

A. They brought it to me,—some one of the crowd.

Q. The second time?

A. Yes.

Q. Were they going to pour it down you then?

A. They proposed to pour it down then.

Q. They proposed to make you drink it? You proposed to do the pouring yourself?

A. Yes, sir.

Q. Did you drink at any other time than that night?

A. No, sir.

Q. Didn't you at one time take a glass and go to Griswold and ask him to touch glasses?

A. At the time I was called to the bar—I recollect that instance, at the time they brought this liquor to me, I recollect of some one—I think, Griswold—got his, and brought it to me. I had had a little talk with him, and he wanted to know if I meant what I said, and touched his glass with me. That was the second time I was in there.

Q. When you returned the third time, did you drink?

A. No, sir; only drank twice that night.

Q. How long did you stay there, that night.

A. A few moments.

Q. About how long?

A. I might have been talking with Griswold, in the hall.

three minutes. I might have been in the bar-room five minutes.

Q. About eight minutes?

A. It might have been ten or twenty minutes that I stopped in the house the second time.

Q. Then did you go away alone?

A. Yes, sir.

Q. Did you see Straub there the second time?

A. I am not positive.

Q. No recollection of seeing him during the evening?

A. No, sir; I saw him so often, I would not place him that night.

Q. How long were you gone the second time?

A. I think half an hour, or probably more.

Q. Where did you go?

A. I went across the street and sat down.

Q. Alone?

A. Yes, sir.

Q. Did you stay there all the time?

A. No, sir.

Q. Where did you go from there?

A. To the postoffice.

Q. What did you go across the street and sit down for?

A. I didn't propose to go away until the crowd shut up.

Q. Were you not a little tired?

A. No, sir.

Q. Where did you go from there?

A. To the Chapman House.

Q. From where you was seated?

A. I went to the postoffice, then across to the sidewalk, and then down to the hotel.

Q. Directly to the hotel, that way?

A. Yes, sir.

Q. Then you sat on the opposite side of the street half an hour?

A. No, sir; all the time I was out, I was on Michigan avenue, and between the hotel and Washington avenue.

Q. When you came back there, the last time, who was present at the Chapman House?

A. I didn't see any one. Thomas Marshall, I think, met me at the door. I didn't go in then; the thing had quieted down then, and the parties had gone away.

Q. What time was that?

A. Between eleven and twelve o'clock at night.

Q. Can you not fix the time more particularly than that?

A. No, sir; I would not judge within half an hour at that time of night, without looking at my watch.

Q. What is your best judgment of the time of night you returned there the last time?

A. Between eleven and twelve.

Q. You saw no one but Marshall, first?

A. No, sir.

Q. What was the talk you had with Marshall?

A. I met him in the hall, and he put his hand on my shoulder and said, "Jim, it is all quiet now; we have got Edmonds to bed; things are all right;" and I said "I am glad of it," and went out.

Q. Do you say you did not go into the building?

A. Into the door-way.

Q. Over the threshold?

A. I can't say whether over the threshold.

Q. Does that door open directly into the saloon?

A. No, sir; it opened into the hall going up stairs.

Q. You saw no one but Marshall?

A. I think not. Not in the hall.

Q. In the house?

A. That is what I mean.

Q. How long were you there with Marshall?

A. Just a moment.

Q. He told you they had got Edmonds to bed, and things were quiet?

A. Yes, sir.

Q. Did you play billiards anywhere that night?

A. Not there, I might have played billiards early in the evening.

Q. Do you know whether you did or not?

A. I don't think I did.

Q. Didn't you play billiards at the Chapman House that night?

A. No, sir, I did not.

Q. Didn't you ask Griswold to play a game of billiards with you?

A. No, sir. Griswold was in the billiard-room when I went into the Chapman House the second time.

Q. Did you and he commence a game of billiards?

A. No, sir; he and somebody else did.

Q. I did not ask you that. Didn't you ask him to play a game of billiards, and you and he went into the billiard-room and commenced playing?

A. No, sir.

Q. Didn't you play awhile and you got so drunk you couldn't count the billiards?

A. No, sir. I never was drunk in my life.

Q. Didn't you dance the "juba" that night?

A. No, sir.

Q. Did you not spat your knees for somebody else?

A. No, sir.

Q. Didn't you spat your knees in the presence of those you have named, for some one to dance,—in the presence of Straub and Daniels?

A. No, sir, I did not.

Q. Your mind is clear on that?

A. Yes, sir.

Q. You testified before the committee in regard to this matter?

A. I was before the committee.

Q. Didn't you there testify positively that Mr. Edmonds was so drunk that he had to be carried to bed?

A. I used the term "assisted."

Q. What do you say about it now? That he was so drunk that he had to be assisted to bed?

A. I said I so understood it.

Q. Was that what you stated before the committee?

A. I did. I said he was so drunk he had to be assisted to bed, I thought.

Q. Did you not swear positively before the committee, that he was so drunk that he had to be carried to bed?

A. I did not.

Q. Let me see if I can refresh your recollection. The question was asked you "Have you knowledge enough of him,—the Commissioner,—to speak of his habits of temperance or intemperance," and the answer, "I have seen him frequently. I saw him at one time so much intoxicated that he had to be carried to bed." Did you say that?

A. I used the word "assisted." I understood it so at the time.

Q. Did you say at the time, you were speaking from hearsay evidence?

A. I stated the circumstance,—related it as I understood it.

Q. Did you state to the committee you were speaking from hearsay?

A. I so understood it.

Q. Did you give your testimony in under oath then?

A. Yes, sir, I was sworn.

Q. You say, now, you did not see him carried to bed?

A. I did not.

Q. You had no personal knowledge of his being carried to bed?

A. I say now, and said before, he was not *carried* to bed, but *assisted.*

Q. Who took the testimony before the committee?

A. I cannot say.

Q. He was a reporter?

A. He was. Yes, sir.

Q. A short-hand writer?

A. Yes, sir.

Q. You said, before the committee, he was assisted to bed?

A. That was the way I understood it.

Q. How did you then understand he was assisted to bed?

A. By Thomas Marshall.

Q. You understood that Thomas Marshall assisted him?

A. Yes, sir.

Q. How did you understand that Thomas had assisted him to bed?

A. From the fact that Thomas Marshall told me so. He said, "I have just got Edmonds to bed."

Q. Did he say he had assisted him to bed?

A. He had just come down stairs, and I saw what I took to be such.

Q. What did you see?

A. I saw some one at the head of the stairs that I supposed to be Edmonds, and I saw some one with him.

Q. Did you see any one other than that?

A. No, sir.

Q. You waited there until Marshall came down stairs?

A. I went in there.

Q. Which time was it you were at the Chapman House you saw these people at the top of the stairs?

A. The last time.

Q. When you opened the door you saw some one at the top of the stairs?

A. No, sir.

Q. How was it?

A. I was outside.

Q. The door open?

A. No, sir.

Q. Who opened the door?

A. There did not anybody open it.

Q. How did you see him at the top of the stairs?

A. The door stood ajar.

Q. A little way open?

A. Yes, sir.

Q. So you could see these parties?

A. I saw some parties there.

Q. When you came along and looked up, you saw some parties on the stairs?

A. Yes, sir, going up.

Q. How long did you stay?

A. Until this party came down.

Q. Did you stand there until this party came down?

A. Yes, sir.

Q. And this party was Thomas Marshall?

A. Yes, sir, I understand it to be Thomas Marshall.

Q. Is there any doubt about it?

A. No, sir.

Q. Then it was Thomas Mashall?

A. Yes, sir.

Q. Then do you say you saw Thomas Marshall on the stairs going up?

A. Yes, sir.

Q. You waited until he came down?

A. Yes, sir.

Q. How long was he gone?

A. Probably three minutes.

Q. What did he say to you?

A. He tapped me on the shoulder,—he called me Jim,—he said "Jim, we have got Edmonds to bed now; it is all right." Said I to him, in a familiar way, "I am glad of it."

Q. When you were testifying before the investigating committee was that all the knowledge you had of Edmonds being carried to bed?

A. Yes, sir.

Q. You say he was quite intoxicated that night?

A. Yes, sir,—I so understood it.

Q. What did he do that indicated intoxication?

A. Oh, his noise and talk.

Q. Did he talk very loud?

A. Above the usual tone of voice.

Q. Anything else?

A. One other thing,—he took me by the collar and wanted to force me to drink. He was a stranger to me,—I had never spoken to him before.

Q. Anything else?

A. General appearance and general actions.

Q. What are those general appearances and general actions? Describe them.

Q. He acted as though he was very much excited; he was bound this one should drink, or that one should drink, and pulling, and hauling, and shoving about.

Q. Did he pull anybody else up to drink?

A. I cannot say that he pulled anybody else up, but I saw him take hold and pull around in a sort of pow-wow, I should term it.

Q. Do you mean that Mr. Edmonds was then pushing and scuffling?

A. I mean that Captain Edmonds was intoxicated then,—an intoxicated man, by his actions.

Q. What were those actions?

A. I have explained that.

Q. Did you see him take hold of any one beside yourself?

A. I cannot say that he did, but I think he did.

Q. Who did he take hold of?

A. I could not pick out any.

Q. Didn't you meet Griswold that night?—he came up to you and asked you what you were doing there, and you told him you were a little "on it," in answer to that question?

A. No, sir.

Q. Didn't he ask you why you didn't arrest some of them?

A. No, sir, he asked me if I was going to.

Q. Didn't you tell him in answer to that, that you were not in a condition to arrest any one,—you thought that you would not do that?

A. I did not tell him any such thing. I told him I did not want to arrest any of that party.

Q. You think you saw Edmonds and one of his clerks come out of Alice's?

A. I think I did.

Q. When was it?

A. To the best of my recollection it was about the first of last September. I cannot give the date.

Q. Who was with you?

A. Miles Bosworth, the under sheriff of Eaton county.

Q. Where were you when you saw him go into the house?

A. Just below the house,—east.

Q. On the sidewalk?

A. I cannot state positive whether we were on the sidewalk or not. We were just below the house; we had been west of the town, and had driven down there.

Q. In a buggy?

A I think we were still in the buggy; we had just driven down. I know just how the horse stood, but I think we were yet in the buggy; I don't think we had got out.

Q. Did you get out of the buggy afterwards?

A. I am not positive whether we got out of the buggy then, or after we went to another place on the flats.

Q. You went to another place?

A. Yes, sir.

Q. Where?

A. To a widow woman's.

Q. You were looking for somebody?

A. Yes, sir.

Q. To arrest him?

A. Yes, sir; we could not find him.

Q. Who was it.

A. His name was Clark Sloan, if I recollect right.

Q. Had you a warrant for him?

A. The under-sheriff had.

Q. Who issued that warrant?

A. Somebody in Charlotte.

Q. Do you know who?

A. I did not look to see.

Q. Do you know what the date was?

A. It was dated the day before, I think. I am not positive, although I have seen the warrant.

Q. Now, you say the man named in the warrant was Clark Sloan?

A. I think so.

Q. What was he charged with?

A. Bigamy.

Q. And you were looking around Alice's for him?

A. We were trying to find him.

Q. You say you were going in there to see if you could find him,—was it usual to look in such places for bigamists?

A. Any criminal that we have a warrant for, if a man, and he wants to get away, he generally goes to places of that character.

Q. How as to women that commit offenses,—do they go there too?

A. I don't know that I ever had a warrant for a woman but once.

Q. Do you know whether they go there to hide?

A. No, sir.

Q. Did you not take one there yourself and hide her?

A. No, sir.

Q. Wasn't there one kept there for you some time?

A. No, sir.

Q. Did you not take a woman from the Lansing House last winter and ask Alice to keep her?

A. No, sir, I did not.

Q. Did you and this officer go in there to find your man?

A. I am not positive whether we did that night or the next night.

Q. You went in?

A. Yes, sir.

Q. You are not positive whether you went in there that night or the next night?

A. I am not positive whether we went in that night or the next night. I was looking for him two days.

Q. Did you find him?

A. No, sir; I have not found him yet.

Q. You are not positive whether you was in the buggy or out of it when Edmonds came out?

A. I am not positive.

Q. Which way was your horse headed?

A. I think a little southeast. He was going east, and we halted and turned him a little round sideways.

Q. Then your best recollection is that you were sitting in the buggy?

A. Yes, sir, that is my best recollection.

Q. If you had driven past there and was sitting in the buggy, you would have to turn round to see?

A. We turned the horse in a little southeast direction.

Q. Were you in an open buggy, or covered carriage?

A. An open buggy.

Q. Was this man with you disfigured in any way. Had he lost a limb?

A. He is a one-armed man,—the officer is.

Q. You say you saw Capt. Edmonds and one of his clerks come out of there?

A. Yes, sir.

Q. And you think that clerk was Griswold?

A. I so stated to him at the time.

Q. Are you pretty positive about it?

A. Quite positive.

Q. Are you just as positive now that that was Griswold as you were when you testified before that committee?

A. Yes, sir, just the same.

Q. Did you have any talk with Griswold on the steps of the depot, the next day after the Legislature adjourned, after this impeachment was ordered?

A. I am not positive.

Q. You do not recollect?

A. Not positively.

Q. You are not positive whether you had?

A. I have had several conversations with him.

Q. Did'nt he there talk with you about your testimony?

A. He has talked with me about my testimony.

Q. Did'nt you then and there tell him you did not know whether it was him or not?

A. I did not ever tell him that. I told him I was positive that night it was him, so much so that I told this officer that was with me, that it was Griswold.

Q. You told Griswold that you told the officer so?

A. Yes, sir.

Q. In the talk at the depot?

A. I cannot tell whether there, or somewhere else. I have told him that, somewhere.

Q. You said at the depot the next day after the adjournment of the Legislature, that you did not say to Griswold in a conversation that you were not sure that he was the man that came out of there.

A. I never said to Mr. Griswold I was not sure.

Q. Where had you been that night,—you and this one-armed officer?

A. We had been out to Mr. Sloan's house, west of town.

Q. Where else had you been?

A. Had not been anywhere. We had driven to the livery stable, to Mr. Sloan's house, and back into town. At the time we saw him we were just in front of Alice's.

Q. Was there any moonlight that night?

A. I think it was starlight.

Q. Was there any moonlight?

A. I think not; I think it was starlight, although it may not have been. I am not positive it was; we could see to drive easy enough.

Q. What time in the night was it?

A. My best recollection is, it was somewhere in the neighborhood of ten o'clock. We left town, I think, a little after eight, and drove out here, two or three miles, and halted long enough to satisfy ourselves that the party was not there, and came back, and it was on our return.

Q. You think it was between ten and eleven?

A. I think it was in the neighborhood of that,—must have been half-past ten or eleven, or from ten to eleven,—somewhere along there, I could not tell positive.

Q. What made you think it was Mr. Edmonds?

A. Why, from his appearance.

Q. What about his appearance?

A. Well, I know him when I see him.

Q. Anything about his walk, or manner, or dress?

A. There was something about his manner and dress, yes, sir.

Q. Anything else?

A. Nothing special.

Q. Nothing special?

A. Only manner and dress; we understand he is a one-armed man.

Q. Did you notice that this man, coming out of there, was a one-armed man?

A. I could not tell, the sleeve hanging, whether there was an arm in it or not.

Q. Do you recollect whether your attention was called to that or not?

A. Not to that particularly; no, sir.

Q. If you should be mistaken about it being Edmonds; it might have been a man with two arms.

A. I am not mistaken about its being Mr. Edmonds.

Q. You are very positive, are you?

A. I am quite positive.

Q. Are you equally positive about Griswold?

A. I am.

Q. Had you been to any saloons that night?

A. No, sir.

Q. Had you drank any champagne?

A. No, sir.

Q. Now, was it not you and the one-armed man, with you, that you saw come out of there?

A. No, sir. You might have seen us coming out of there, if you had been there.

Q. You are not sure whether you went in that night, or not?

A. Not positive; no, sir.

Q. Where did you go from there?

A. We went down to a widow woman's.

Q. How long did you stay?

A. A few moments.

Q. Did you go in?

A. We did.

Q. Both of you?

A. Yes, sir.

Q. How long did you stay there?

A. Probably fifteeen or twenty minutes.

Q. Were you looking for your prisoner there?

A. We were.

Q. For a man charged with crime? You didn't find him?

A. One of his wives was there.

Q. *One* of them?

A. Yes, sir.

Q. And from there, where did you go?

A. I am not positive, as I said, whether we drove back and went into Alice's, that night, or whether we went to the livery stable and put out our horses.

Q. Then you either went to Alice's or to the livery stable.

If you did not go to Alice's from the widows, you took your horses directly back to the livery stable?

A. Yes, sir.

Q. Then the next night you drove again?

A. No, sir. The next night we did not drive. We walked. I recollect now.

Q. Now that night you went to Alice's?

A. No, sir. I recollect all about it now. We footed it,—walked.

Q. Then you think now, that you did not go to Alice's that night?

A. We didn't go in, that night.

Q. Did you go there to go in?

A. We was calculating to go in there when we drove down. I know that, and we drove up in front of the house, and the doors opened. We were driving by.

Q. You were driving by?

A. Yes, sir. We should have hitched and gone in if there had not been some one coming out.

Q. What difference did that make,—somebody coming out?

A. We was pretty well satisfied our man was not there, if such parties were in there.

Q. Now, sir, was not it the fact, that you was afraid of being seen there?

A. No, sir; I am not afraid of being seen there. If I want to go there, I go there in the day-time.

Q. You do go there nights?

A. I have been there nights.

Q. Down to the Chapman House, you had a talk with Griswold in the hall, about arresting him?

A. No, sir.

Q. Where was it?

A. I had a talk with him, and he wanted to know if I wanted to arrest him.

Q. There was some talk about arresting him?

A. I did not talk about arresting him;—he did.

Q. Was there any one present when you were talking with Griswold about that?

A. I don't think there was.

Q. Were you ever wounded in any engagement in the army?

A. I was.

Q. Drawing a pension?

A. No, sir.

Q. Were you not dishonorably dismissed?

A. No, sir.

Q. Is it not so reported in the Adjutant General's reports?

A. I was discharged for being absent, under Order No. One Hundred and —; I can't tell the number now. There was so many officers absent at that time, and I was unable to return, and they were discharged.

Q. Were you absent on account of wounds?

A. I was absent on account of wounds; yes, sir.

Q. You have seen Van Dunham drunk?

A. I have.

Q. Any other time than at the Chapman House?

A. I have seen Van Dunham drinking—what I call intoxicated—on the streets; not drinking on the streets, of course, don't understand me,—but I have seen him under the influence of liquor.

Q. While on the street?

A. While on the street.

Q. How drunk have you seen him,—so he staggered?

A. I have seen him so he could not walk straight; yes, sir. I have seen him so he would get hold of parties and talk to them, and hang on to them, and do as you see other drunken men do.

Q. How frequently?

A. Oh, a good many times; I don't know.

Q. In the day-time?

A. I have seen him intoxicated in the day-time.

Q. In your direct examination before dinner, did you not say

that he frequently drank, but did not frequently get drunk in the day-time?

A. I state now that he frequently drinks and gets tight, but then he don't get tight in the day-time as often as he does in the evening. I have seen him under the influence of liquor in the day time.

Q. How often do you think you ever saw Van Dunham drunk?

A. Oh, I could not state.

Q. Ten or twelve times?

A. Oh, I don't know anything about it. Van Dunham is a man that drinks a great deal.

Q. Well, we will accept that. You have seen him drunk a number of times; about how often?

A. I could not tell; a good many times.

Q. Well, have you twenty-five times?

A. I don't know.

Q. Do you remember of testifying before the Committee in regard to Van Dunham's being drunk?

A. I remember some talk in regard to his being drunk, there.

Q. Didn't you tell the committee you had seen him drunk a hundred times?

A. No, sir, I don't think I did. There was considerable of that testimony there, that is in there, that was conversation between the committee and I, that Mr. Reporter wrote down, and a good deal in there that ain't just as it was, according to my idea of things.

Q. Do you suppose that is so of other witnesses who testified before the Committee?

A. I don't know. I never had an opportunity to read and sign mine; never had an opportunity to see it at all.

Q. Let me read a little of it, and refresh your memory.

A. Well, go ahead.

[Counsel reads.] "Q. Do you know what capacity he is in?" (referring to Van Dunham.) "A. I know nothing only a clerk. I have seen Van Dunham drunk a good many times.

I have seen him, perhaps, a hundred times." Q. Did you make such a statement as that?

A. I don't know whether I did so or not,—I don't think I did. I may have said so,—I presume I have if I should put it right down to every time I have seen him out,—I presume I have seen him that number of times.

Q. So, if you said so, you are going to stick to it, now?

A. No, sir, that ain't the idea; but I say, in a casual way of speaking, I should say I had seen him under the influence of liquor, a hundred times, if any one should ask me that question fair and square.

Q. Now, don't you rather think you said that before the committee?

A. I don't think I said so in any examination.

Q. Don't think you did?

A. No, sir, I think not.

Q. You don't think you said anything about a hundred times?

A. I don't know anything about how many times I said. I believe whatever I said to the committee.

Q. Do you know an old gentleman in this town who drives a dray and carries the name of Asa Shattuck?

A. I do.

Q. Have you had any talk with him about this case?

A. I have, a little.

Q. When did you talk with him?

A. I had one conversation with him,—that is, I had one when he done an errand for me, and then the answer, I can't tell exactly what it was; if I recollect right, it was before the impeachment was commenced; it was not directly in regard to this case.

Q. Have you not had a talk with him directly in regard to this case, after the impeachment was ordered, and since the adjournment of the Legislature?

A. I don't think it was since the adjournment of the Legislature; I know the conversation I had with him.

Q. Did you not ask him to find out by Alice, if she ever knew of Edmonds being drunk?

A. Not directly that question.

Q. How direct was it?

A. I asked him to get me the names of parties, if any, that had been to Alice's on drunken sprees with Mr. Edmonds.

Q. Did you not tell him you would give him ten dollars for the information.

A. I did not. I told him I would pay him for all the trouble I made him. I did not say ten dollars.

Q. Did you say anything about ten dollars to him?

A. I did not. I told him I would make it pay him well.

Q. Did you not tell him that you was making money out of the Edmonds impeachment case, and that he might just as well make some as you?

A. I did not, in that language.

Q. What did you say?

A. I told him I got my pay for it, and I would pay him.

Q. You did not tell him you was making money out of the Edmonds case?

A. No, sir; it was before the case commenced.

Q. I asked you if you did not have a conversation with him since the adjournment of the Legislature.

A. This conversation, sir, was before the adjournment of the Legislature. It was while I was at work for Mr. Porter.

Q. You are one of the Assistant Sergeants-at-Arms here?

A. I am.

Q. Working in the employ of the State?

A. I am.

Q. Have you not also been working up this case in the employ of an individual?

A. Not since the trial commenced.

Q. How long previous to the trial did you cease your employment with that individual?

A. [Referring to memoranda.] It was on or about the 22d of March.

Q. About the 22d of March?

A. Yes, sir.

Q. Where was this conversation that you had with the old man Shattuck?

A. On the corner of the street down here.

Q. Here in Lansing?

A. Yes, sir.

TESTIMONY OF MILES L. BOSWORTH.

Miles L. Bosworth, a witness produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Cochrane:

Question. Where do you reside?

Answer. Charlotte, Eaton County.

Q. Your occupation?

A. I am under-sheriff there.

Q. What was your occupation in 1871, in September, or about that time?

A. Under-sheriff.

Q. Have you heard the testimony of Mr. Baker, just given?

A. Yes, sir.

Q. Do you recollect being present with him on that occasion?

A. Yes, sir; I do.

Q. What was the occasion of your presence with him,—what were you doing with him?

A. He had a warrant for a man, and he was with me.

Q. What was he doing with you?

A. We were looking for the man.

Q. Where did you go on that night that he speaks of?

A. We went from here, west of town.

Q. Did you have a buggy?

A. Yes, sir—a horse and buggy,—went out there, and returned.

Q. What time did you go out there?

A. We did not start until after dark from here. It must have been near eight o'clock.

Q. When you started?

A. Yes, sir.

Q. How long were you gone?

A. I do not know just how long, probably—

Q. Nearly how long?

A. An hour and a half or two hours.

Q. What time did you get back to town?

A. It must have been half-past nine, I should think?

Q. When you came back, what road did you come in on?

A. On what is called the Lansing and Battle Creek State road.

Q. Where did you go when you left that road?

A. We went directly east.

Q. On what street?

A. I do not know the name of it,—east of Alice's house.

Q. Do you know where Alice McCabe lives?

A. Yes, sir.

Q. Was it in the street where she lives?

A. Yes, sir.

Q. Do you know her house?

A. I do.

Q. When you arrived in front of her house whom did you see?

A. We were driving along slowly. We were going to stop. Mr. Baker says, "There is some one coming out;" and we drove by a little west, or east, and there was two gentlemen came out; and he made the remark to me, "There is our Land Commissioner and Mr. Griswold."

Q. Did you observe them particularly?

A. I did not very closely; I was watching for this man.

Q. For a man you were after?

A. Yes, sir; if it had been he, I would have known him.

Q. Was it light enough for you to have known Edmonds?

A. I would have known a person that I was well acqnainted with.

Q. Do you know Commissioner Edmonds?

A. I never saw him, unless I saw him then, until this trial began.

Q. You did not know personally whether that was the Commissioner?

A. I did not.

Q. Did you know Griswold?

A. I used to meet Griswold when he was attending school in Olivet. I did not recognize him that night.

Q. Did you recognize the appearance of the men that night?

A. Yes, sir; I looked pretty close. I did not know but it might be the man I was looking for.

Q. Did you observe whether either one of them had but one arm, or anything of that kind?

A. I could not say positively whether I observed anything like that or not.

Q. Was it a clear night?

A. It was a starlight night. I do not think there was any moon at all. A person could recognize any one they were acquainted with.

Q. At this moment you were in search of the man named in that warrant?

A. Yes, sir.

Q. You could see well enough to satisfy yourselves that the party coming out was not your man?

A. I knew they were not my men.

Q. How did you know,—from the height or build of your man?

A. This man I was looking for had a very peculiar motion in his walk. I was well acquainted with him and had been for years.

Q. Would you have been able to have detected that man, that time of night?

A. Oh, yes; readily.

Q. Where did you go when you left this place?

A. My recollection is, here, we drove to his second wife's aunt,—nearly north of where we were, a short distance,—went there, and then returned there.

Q. Returned where?

A. To Alice McCabe's.

Q. Did you go in that night?

A. I think it was that night we went in. I know I never was there but once, and I am quite positive that was the night.

Q. If you were there that night you were not there the next night?

A. No, sir; I never was inside of her house but once.

Q. You have since seen Edmonds?

A. Yes, sir.

Q. You do not know that the man that now appears to be Edmonds was the man you saw coming out of the house that night? Have you any reason to think so, and if so, state it?

A. I do not know that I have any particular reason for thinking so,—enough that I would like to be positive on.

Q. So that your knowledge was derived from the statement of Baker, on that occasion?

A. Yes, sir. I simply state what he said the gentlemen's names were.

Q. What was the size of the men that came out?

A. I should call them ordinary-sized men, to the best of my recollection.

Q. One of them taller than the other?

A. I do not know that I could say positively, now.

Q. Did you not notice them sufficiently for that purpose,—to distinguish whether there was any particular difference?

A. My impression is, now, that there was a difference in their height.

Q. Mr. Griswold is not so tall as the Commissioner, I believe?

A. I think not.

CROSS-EXAMINATION OF MISS L. BOSWORTH.

Cross-examined by Mr. McGowan;

Question. Had your attention been called to that fact before, —of there being one taller than the other?

A. No, sir.

Q. You simply estimated when the question was asked you? Are you clear now?

A. I was trying to think.

Q. Are you clear now, that one man was taller than the other.

A. I would not swear positively that there was.

Q. You say first they were medium sized?

A. Yes, sir.

Q. If they were both medium sized, they would be one height. Is there a difference in mediums?

A. There is.

Q. If there was a little margin in the medium-sized man, would you have noticed it that night?

A. I would not have noticed it unless there was quite a discrepancy.

Q. If there was quite a discrepancy, would you say they were both medium sized?

A. Perhaps not, in height.

Q. Will you say that one was taller than the other, or simply that it was a mere impression?

A. I say, as I did before, I had an impression that one was taller than the other.

Q. Did you not get the impression from the question?

A. Perhaps I did.

Q. When did you come to Lansing at that time?

A. I came that afternoon.

Q. When was the warrant issued?

A. The warrant, I see, is issued the sixth of September.

Q. Was it issued the same day that you came up here?

A. I think it was issued the day before.

Q. What day of the week were you here?

A. I cannot recollect now.

Q. What makes you think that warrant was issued the day before?

A. I wrote a letter to the complaining witness, over at Olivet, and she came here, and I went with her, to the justice's, to get the warrant.

Q. It was a case you were working up?

A. Yes, sir.

Q. You think you did not start with the warrant until the next day after it was issued?

A. That is my impression now. I might possibly have come that day, but I do not think I did?

Q. Have you got the warrant with you?

A. Yes, sir.

Q. Will you please let me see it?

[The witness produces the warrant.]

Q. Your best impression is that you came up the day after the warrant was issued?

A. Yes, sir.

Q. Do you know whether the warrant was issued the same day the complaint was made?

A. It was.

Q. And have you that date?

A. Yes, sir.

Q. You think you came here the next day?

A. I think I did.

Q. You were here that night?

A. All night.

Q. Were you here the next day?

A. Yes, sir.

Q. And the next night?

A. I think I left here about eight o'clock the next evening.

Q. Did not you and Baker go around some, the next night, looking for this man?

A. I think we did.

Q. Where did you go?

A. I think we went to this widow woman's.

Q. The one you have spoken of already?

A. Yes, sir.

Q. Where else, if any place?

A. We went to a Mrs. Northrop, I think her name is, that lives on Capitol avenue.

Q. Anywhere else?

A. Not that evening.

Q. Did you go down to these two places after dark?

A. Yes, sir; in the forepart of the evening.

Q. You went away from here about eight o'clock?

A. I do not recollect now just what time the train did leave. It used to go over to our place a little after nine.

Q. Where did you go from here?

A. Charlotte.

Q. What did you do the next day?

A. After I went to Charlotte?

Q. Exactly.

A. The next day I came back within five miles of this place.

Q. Driving?

A. I came up in the morning, about five miles, to what is called Millets.

Q. You drove?

A. I came on the cars.

Q. Where did you go from there?

A. I remained there until the next train returned. The next train went down about half-past ten, I think, in the forenoon.

Q. What did you do the next day?

A. I cannot tell you, sir; I do not recollect.

Q. Can you fix the day of the week any way?

A. I do not think I can now; it is possible I may be mistaken about coming back up to Millet's?

Q. The evening you saw this man come out of Alice's, you

drove, from where you were standing when they came out, to this widow woman's?

A. Yes, sir.

Q. How long did you stay there?

A. From fifteen to twenty minutes,—perhaps a little longer.

Q. Then you went to Alice's?

A, That is my recollection of it.

Q. You are pretty clear with regard to that?

A. I am quite clear we went to Alice's that night. We had a horse and buggy.

Q. Did you drive from the widow woman's back to Alice's with the horse?

A. Yes, sir.

Q. Where did you hitch your horse?

A. In front of her cottage.

Q. Was there a hitching-post there?

A. Yes, sir.

Q. Had you ever been there before?

A. Not before that evening I had been up there.

Q. You knew where she lived, previous?

A. Yes, sir.

Q. You are sure you drove back and hitched in front of her cottage?

A. Yes, sir.

Q. You went in there?

A. Yes, sir.

Q. What time do you think it was, you went in there, that night?

A. It might have been between ten and eleven.

Q. How long did you stay there?

A. Probably stood there fifteen minutes.

Q. Make any search of the house.

A. Not in particular.

Q. In general?

A. Mr. Baker inquired, and she told him "No, that there

was nothing of the kind there;" and says: "It is all right, she would not prevaricate about it."

Q. You trusted her?

A. He did; I did to him.

Q. You were looking for your man?

A. Yes, sir.

Q. You made no search there more than simply to ask her?

A. That is about all.

Q. Did it take fifteen minutes to ask that question?

A. No.

Q. Was there not some other conversation?

A. Yes, sir.

Q. Stood there awhile?

A. Yes, sir; a few minutes.

Q. I think, in your answer to the Honorable Manager, you stated you came back here from out of town, at half-past nine o'clock?

A. I think it was about that time.

Q. And near Alice's you saw somebody come out of the door. Where were you when they came out?

A. We were driving along slowly, and we heard the door rattle,—the lattice, perhaps,—and says he, "Some one is coming out," and we drove on just past,—probably went ten feet from the walk. It goes out from her door perhaps further,—I do not recollect how far.

Q. How far were you from the man who came up, when you saw them?

A. I should say from thirty to forty feet. I do not know just the distance.

Q. Which way were you driving?

A. We were driving east; the horse was hitched a little to the south. The main direction, however, was east.

Q. Do you remember that you turned the horse to the south?

A. Yes, sir, we were partially out,—we had partially

turned up, and stopped there. We were out of the track, like —near the ditch.

Q. Didn't you get out of your buggy and follow the men who came out?

A. We did not.

Q. All you knew about them was what you observed from sitting in the buggy?

A. Yes sir.

Q. Open buggy, or closed?

A. Open.

Q. You think it was between ten and eleven that you were there?

A. Yes, sir.

Q. Did you see anybody in the street when you and Baker came out?

A. I do not recollect seeing any one now, after we saw them the first time. There were two or three men sitting along the fence, further north from there. After we had turned around, and went north to this widow woman's, there were some men, and we recognized them,—called them by name. They seemed to be hanging around.

Q. On the fence?

A. Sitting on the walk, and around there?

Q. You say you did not notice that one of the men who came out was a one-armed man?

A. I did not, particularly.

Q. But, half an hour later, a one-armed man and another man did come out, that you know of?

A. Yes, sir; I was there.

Q. Who made the complaint?

A. I did.

Q When did you make it?

A. I made it, I suppose, the day of the date.

Q. Have there been any errasures of the dates?

A. Yes.

Q. Who made them?

A. Mr. Hooker.

Q. When?

A. He made them the same day the warrant was issued.

Q. He first put it July?

A. I cannot state how it was put. I recollect the erasures. I recollect going to him and having it changed. I saw there was a mistake.

Q. Did he first write down August, upon that paper?

A. Yes, sir, he did.

Q. Did you go back and have it erased?

A. No, sir; he wrote in the first place, September.

Q. Did you have it erased?

A. Yes, sir.

Q. I understood you to say it was September?

A. I said the warrant was in September.

Q. Is not that the date of the warrant?

A. It is not, sir.

Q. What is that date that has been erased?

A. It reads the 6th of July, 1868.

Q. What is that,—the date of the warrant?

A. It is not, sir; that is the date of the complaint.

Q. July 6th, 1868?

A. The act was committed—

Q. What is the date as appears by the warrant?

A. 6th July.

Q. What year?

A. 1868.

Q. The date of the complaint was the 6th July, 1868,—do you mean to be understood so?

A. No, I don't. You have got me mixed a little.

Q. Unmix yourself.

A. The date of the issuing of the warrant was on the 6th of September, 1871, and when this act was commited—his marriage to one Miss Olin—was the 6th of July, 1868.

Q. Did you so understand the man when you drew the warrant?

A. She was by,—I did not instruct her,—she was by,—and was not prepared to go bail for costs. I said I could make the complaint just as well. I was knowing to the circumstance, and I was sworn to the complaint.

Q. Did you take it back for erasures more than once?

A. I did not.

Q. Did you say that evening when you were at Alice's was a starlight evening.

A. Yes, sir.

Q. That there were no clouds?

A. I did not say; there might have been clouds.

Q. That there was no moon?

A. I think there was no moon.

By Mr. Manager Cochrane:

Question. You stated that after passing Alice's house there were some men hanging around, on the sidewalk; that Mr. Baker addressed them?

Answer. Recognized them, I said.

Q. Did he speak to them?

A. No, he did not speak to them.

Q. I understood you to say he spoke to them.

A. Recognized them.

TESTIMONY OF GEORGE FOWLER.

George Fowler, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Grosvenor:

Question. Where do you reside?

Answer. Lansing.

Q. What is your business?

A. Mechanic.

Q. How long have you resided here?

A Since 1865.

Q. Are you acquainted with the respondent in this case,—Captain Edmonds?

A. I know him when I see him, and I know him by reputation.

Q. Will you state whether you ever saw him at the Chapman House?

A. Yes, sir.

Q. You have heard the testimony of Mr. Baker?

A. Yes, sir; since dinner, I have.

Q. You didn't hear his testimony before?

A. No, sir.

Q. Upon what occasion did you see Mr. Edmonds at the Chapman House?

A. I saw him there several times,—well, universally, almost,—the forepart of last summer, between six and seven o'clock.

Q. Do you remember of seeing him there?

A. I have seen him there, twice or three times, drunk.

Q. Can you mention any one time?

A. I cannot mention any date.

Q. Were you there on the evening of the wedding party?

A. No, sir, I was not.

Q. Different occasions?

A. Different occasions.

Q. About how long ago?

A. After the first of June, 1871, for—oh, one, two, or three months.

Q. Two or three months after the first of June?

A. Yes, sir.

Q. On several occasions?

A. A great many times,—I presume every evening for two or three months.

Q. How many times did you see him drunk there?

A. Not less than twice, nor more than ten times.

Q. Did you ever see him drunk at any other place in this city?

A. No, sir.

CROSS-EXAMINATION OF GEORGE FOWLER.

Cross-examined by Mr. McGowan:

Question. You say you are a mechanic. How long have you worked at the business?

Answer. Since 1867.

Q. Previous to that, what was your business?

A. Previous to my going into the army, I was a farmer, and while I was in the army, I was a soldier.

Q. And after you went out of the army?

A. I went to work for Allen & Wise.

Q. You think you have seen him drunk three or four times?

A. Yes, sir.

Q. No less than twice?

A. No, sir.

Q. You are sure it does not exceed ten?

A. Yes, sir.

Q. All at the Chapman House?

A. Yes, sir.

Q. When was the first time?

A. After the first of June.

Q. How long after?

A. I don't know anything about it.

Q. A month?

A. No, sir.

Q. Three weeks?

A. I don't know whether it was or not.

Q. It was not a month?

A. No, sir.

Q. It might have been three weeks?

A. Yes, sir.

Q. What time of day?

A. Between six and seven o'clock in the evening.

Q. Whereabouts in the Chapman House when you first saw him—the first time—confine yourself to that?

A. I don't know whether I shall, the first time or second time.

Q. We will confine ourselves to the first time till you get through. If you remember the first time, state.

A. I don't remember whether the first time or the second time.

Q. Do you know where you were the first time you saw him drunk?

A. At the Chapman House.

Q. Where?

A. Either in the office, or in the saloon,—or in the sitting-room, or reception room, or sales-room—whatever it is.

Q. He was in that room, or on the steps?

A. Yes, sir.

Q. Who was with him?

A. Mr. Griswold was in the sitting-room with him, and when he was on the steps, sitting in a chair, Mr. Bowen,—I have been told it was Bowen. I know Mr. Bowen, but I did not know it was Mr. Bowen at the time; but I know it was Mr. Bowen since.

Q. Who else?

A. Mr. Clarke and Mr. Marshall, and several others, were there in the party.

Q. Had you been acquainted with Mr. Edmonds previous to that?

A. No, sir. I never spoke a word with Mr. Edmonds in my life.

Q. How frequently had you seen him previous to seeing him drunk?

A. Every evening.

Q. For how long?

A. From the time he commenced boarding at the Chapman House until he went way.

Q. Was he boarding at the Chapman House when you saw him there drunk?

A. Yes, sir; so I was told.

Q. How long had you seen him previous to the first time you saw him drunk?

A. Ever since he commenced boarding at the Chapman House.

Q. When was it?

A. I don't know.

Q. Have you no idea how long you had known him by sight?

A. A good while.

Q. More than a month?

A. Yes, sir, I think perhaps it was two months. I don't know as it was that. I used to be in the habit of seeing Mr. Edmonds.

Q. You have told us that a month previous to your first seeing him drunk, you saw him every evening pass the Chapman House?

A. Yes, sir.

Q. Where did you usually see him?

A. Between the corner of Washington avenue and the Chapman House, on Michigan avenue, and sometimes he would be at the Chapman House.

Q. Usually you met him?

A. Yes, sir.

Q. Sometimes he would be at the Chapman House?

A. Yes, sir.

Q. Can you remember of any occasion, or remember of anything, to fix the time when you first saw him drunk?

A. I cannot fix the date, but after the first of June.

Q. The first time you saw him drunk, what was he doing?

A. Talking and carousing.

Q. What do you mean by carousing?

A. Indecent actions and talking impolitely.

Q. To whom?

A. To his party.

Q. Did you talk with him?

A. No, sir. I never spoke a word with him in my life.

Q. How long did you stay there the first time to see him?

A. Perhaps twenty minutes.

Q. What else did he do, except talk impolitely to his party?

A. Yes, sir, about all.

Q. Was it on account of the impolite talk that you thought he was drunk?

A. His general appearance.

Q. What was that appearance?

A. Drunken men vary.

Q. What was the fact in the case?

A. The fact was, I supposed him to be drunk. I *know* he was? No, I don't *know* he was.

Q. Are you going to admit that it is possible you were mistaken?

A. I think I can tell a drunken man.

Q. The second time you saw him drunk, what was he doing?

A. He went on to—I don't know whether it was the first or second time.

Q. The next time, the time in the room?

A. The next time it was in the sitting-room,—what was then sitting-room and the saloon was where the office is now. He was going from that room into the hall, and passing into the saloon.

Q. What did he do to make you think he was drunk?

A. He was pulling somebody around that was with him.

A. Did you ever see a man pull and haul a man around that was not drunk?

A. Yes, sir.

Q. Was that the only thing that made you think Edmonds was drunk at that time?

A. Yes, sir; his general appearance.

Q. Do you know anything about his habits?

A. I know nothing about him at all.

Q. Did you know anything about him before he came here?

A. I have heard—

Q. Did you know him personally?

A. I don't know him now.

Q. Do you know anything about his being drunk, now, except what you saw of him at the Chapman House?

A. No, sir; only what I have heard.

Q. From personal knowledge, all you know of his drunkeness is what occurred at the Chapman House?

A. Yes, sir.

Q. What did he do the third time you thought he was drunk?

A. Something similar.

Q. Pulling the boys around?

A. Oh, acting as a drunken man does. You know how a drunken man does.

The Presiding Officer—The witness will answer the question.

Question. Do you recollect any other time excepting the two times you have spoken of,—once outside and once in the room?

Answer. No, sir; not particular.

Q. You do not particularly recollect any other time?

A. No, sir.

Q. You were not there at the time spoken of, when Conkling was married?

A. No, sir.

Q. How did you come to be passing there every evening?

A. Going home from my work.

Q. Did you stop frequently?

A. Every night.

Q. Take a drink?

A. Every night.

Q. Did you stop in the morning?

A. No, sir.

Q. At noon?

A. No, sir.

Q. Only took your drinks at night?

A. That is all.

Q. You took your drink regular every night?

A. Every night.

Q. Did you take more than one?

A. No, sir.

Q. At this time when Edmonds was drunk, wasn't it possible that you were a little drunk?

A. No, sir.

Q. Not possible?

A. No, sir.

RE-EXAMINATION OF GEO. FOWLER.

Examined by Mr. Manager Cochrane:

Question. Was the conduct of Mr. Edmonds at this time you speak of,—at the time you supposed he was drunk,—different from other times when you saw him?

Answer. Yes, sir. Different from other times I met him. I have seen him several times in his office.

Q. Was it different from what it was in the case of a man you supposed to be sober?

A. Yes, sir.

Q. Was it very similar to the case of a man you supposed to be drunk, or had good reason to believe was drunk?

A. Yes, sir.

RE-CROSS-EXAMINATION OF GEO. FOWLER.

Examined by Mr. McGowan:

Question. Did you ever see Mr. Edmonds drink?

Answer. No, sir, never in my life.

By the Presiding Officer—The Senate will now take an informal recess of five minutes.

AFTER RECESS.

TESTIMONY OF SARAH MARSHALL.

Sarah Marshall, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Grosvenor:

Question. Where do you reside?

Answer. In Lansing.

Q. Are you the wife of Thomas Marshall?

A. Yes, sir.

Q. Where did you board in February last?

A. I lived at the Chapman House.

Q. Are you acquainted with Mr. Edmonds, Capt. Edmonds, who sits there at the table?

A. I have met Mr. Edmonds at the Chapman House.

Q. Did you see him there in February last any time, or last winter?

A. I think he boarded there in February.

Q. Did you ever see him there in a state of intoxication, or under the influence of liquor, according to your judgment?

A. I have seen him when I thought he had been drinking some.

Q. When was it?

A. While he was boarding there.

Q. During the last winter;

A. I believe it was then he was boarding there.

Q. In February last?

A. I could not say whether it was in February,—it was while he was boarding there.

Q. State where it was; wherabouts in the house.

A. I never saw him anywhere only in the dining-room.

Q. Was this in the dining-room, that you observed him. Did you observe him in the dining-room when he had been drinking,—the time you refer to? [Witness hesitates.] You stated that you saw him when you thought he had been drinking. Now, I would like to know what place that was in the house,—whether it was in the house or some other place?

A. Why, it was in the house.

Q. In what room?

A. In the dining-room.

Q. Who was with him?

A. I don't know.

Q. Were there others at the table?

A. Yes, sir.

Q. It was at meal time?

A. Yes, sir.

Q. What meal?

A. Supper.

Q. Do you know whether he and those that were with him continued there that night and had a drinking party after supper?

A. I don't remember.

Q. Do you remember of hearing your husband say anything about it,—in which he had his shirt torn?

A. Yes, sir.

Q. On that occasion did they that night remain, and have a drinking party?

A. The night his shirt was torn, I guess they did.

Q. Was this the same night that you observed him at the supper table as having been drinking?

A. I could not say.

Q. Could not say whether it was that or another time?

A. No, sir.

Q. Will you state who was sitting at the table with him? I want to know whether any of his clerks were with him?

A. They were most always at their meals together.

Q. The night that your husband had his shirt torn, did you see Edmonds,—know anything about it?

A. No, sir.

Q. How did you learn that fact.

A. Not until the next morning.

Q. How did you learn it?

A. The porter told me first.

Q. The porter of the hotel?

A. Yes, sir.

Q. What is his name?

A. I can't remember who was there at the time.

Q. Was your husband with that party the night they drank?

A. Yes, sir; I suppose so.

Q. What time did he come to his room?

A. I could not say.

Q. Do you know about what time it was?

A. No, sir.

Q. Whether it was after midnight?

A. We were not married then.

Q. Excuse me. I thought you were; I had got the impression that you had been married some time. When were you married?

A. Last September. It was a year ago; it was not this last February.

Q. Excuse me; I had forgotten; I thought you were married last season; and you had spoken it was last February;—I thought it would be very natural—

A. I did not mean the last February.

Q. You made a mistake then; it was a year ago, February?

A. Yes, sir.

Mr. Manager Grosvenor—If it was a year ago, February, we will not make any further inquiry about it. I supposed it was last February.

CROSS-EXAMINATION OF SARAH MARSHALL.

Cross-examined by Mr. McGowan:

Question. Were either of these times you have mentioned, the time of the wedding party of Conkling's?

Answer. Yes, sir.

Q. Which one. The time Mr. Marshall had his shirt torn?

A. No, sir.

Q. The time you thought Mr. Edmonds was intoxicated at the supper table,—was that the time of the wedding party?

A. Yes, sir.

Q. That was the time?

A. Yes, sir.

Q. What time did you have tea that night?

A. Six o'clock; it was after six when they came in to supper.

Q. It was after six?

A. Yes, sir.

Q. Who came in with Mr. Edmonds that night to the tea table?

A. I don't remember; the boys always came in together.

Q. You cannot recollect what ones of his clerks came in with him?

A. No, sir.

Q. Do you recollect that Mr. Bowen and Mr. Griswold were with him?

A. I do not remember that night. They most always came in together.

Q. You are sure the night you think he was under the influence of liquor was the same night that Conkling treated on account of his wedding?

A. Yes, sir.

Q. What made you think when he came in to the supper table that he was under the influence of liquor?

A. They were laughing and talking, and speaking of Conkling coming home.

Q. Were the rest laughing and talking also?

A. Yes, sir.

Q. They were all talking about Conkling coming home?

A. Yes, sir.

Q. That was all?

A. Yes, sir.

Q. Is that all you know of Edmonds being intoxicated.

A. Yes, sir.

Q. Do you know, then, of your own personal knowledge, whether he was there at the time Mr. Marshall's shirt was torn?

A. I did not see him. I do not remember whether he was, that night, or not, only I heard them say he was. I did not see Edmonds.

Q. You do not know whether he was in town that night?

A. I don't remember.

Q. Do you remember the day of the week?

A. Saturday night.

Q. Do you not know that he usually went home, Saturdays, to Coldwater?

A. I do not remember. I know he went home. I do not know whether he went home every Saturday.

Q. When he went home he went on Saturday?

A. Yes, sir.

Q. This time, when Marshall's shirt was torn, was Saturday night?

A. I think it was.

Q. You have no personal knowledge of Edmonds being there at that time?

A. No, sir.

Q. Neither saw or heard anything yourself?

A. Nothing, only the whole of them,—the noise.

Q. Nothing directly from him?

A. No, sir.

TESTIMONY OF REBECCA HOTALING.

Rebecca Hotaling, a witness produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Grosvenor:

Question. You reside in this city?

Answer. Yes, sir.

Q. Are you the wife of Thomas Marshall?

A. No. sir.

Q. Hotaling?

A. Yes, sir.

Q. Proprietor of Chapman House?

A. He is not proprietor now.

Q. Was he last year?

A. Yes, sir.

Q. In August or September last?

A. Yes, sir.

Q. Do you remember the occasion of a wedding party at your place?

A. Yes, sir.

Q. Whose wedding was it?

A. Mr. Conkling's.

Q. Mr. Edmonds there?

A. Yes, sir.

Q. Do you know whether he had been drinking that night to excess?

A. I do not.

Q. Do you know whether he was intoxicated, or not?

A. He was not, the last time I saw him.

Q. What time was that?

A. Half-past nine in the evening.

Q, Where did you see him then?

A. In the hall.

Q. Who was with you when you saw him?

A. My husband.

Q. Did he have the appearance of having been drinking?

A. I could not say.

Q. What was he saying to your husband, if anything?

A. He was about going into the bar-room.

Q. State the conversation there, between yourself, the respondent, and your husband.

A. I was getting my husband up stairs with me. I do not remember anything that Edmonds said, only that a wedding did not happen every day, and they had better go back and have some fun.

Q. He desired your husband to go back and have some fun?

A. Yes, sir.

Q. You wanted him to leave the crowd?

A. Yes, sir.

Q. Did he go with you?

A. Yes, sir.

Q. Did you return again to the hall?

A. No, sir.

Q. Did you see Edmonds again that night?

A. No, sir.

Q. Do you know whether there was any drinking there after that?

A. I do not know. I did not go out of my room after that time.

Q. Was there any noise or disturbance?

A. Considerable noise.

Q. Was it within hearing of your room?

A. Yes, sir.

Q. Did you hear the voice of Edmonds?

A. I did not hear any voice particularly.

Q. Do you know who was there besides Edmonds?

A. I could not say.

Q. Do you know whether Griswold was there?

A. I saw him there in the evening.

Q. Van Dunham?

A. I think I saw him. I could not say. They were boarding there at the time. I presume likely they were.

Q. Did Marshall board there?

Q. Yes, sir.

CROSS-EXAMINATION OF REBECCA HOTALING.

Examined by Mr. McGowan:

Question. Will you state, as near as you can, when that was?

A. I could not tell, to save me, when it was.

Q. Was it previous to July. Possibly you can fix it by the fourth of July, recollecting what was done there, if you can?

A. I think it was before July; I would not say for sure.

Q. When did Mr. Conkling and Mr. Hotaling commence keeping that hotel.

A. About the 1st of December.

Q. December previous?

A. Yes, sir.

Q. How long do you think they had been running that house before this occasion that you speak of; was not Conkling married in the spring?

A. I think he was; I could not say as to that.

Q. Your best recolection is that it was previous to the fourth of July?

A. I think so.

Q. You say you saw Edmonds?

A. About half-past nine that evening.

Q. Was there anyone else in the hall besides your husband and Mr. Edmonds at the time you had the talk?

A. Mr. Conkling was there.

Q. You say he was not intoxicated at that time?

A. I do not think he was.

Q. From that time your husband went up stairs, and did not return again to the company below?

A. He was not down again until morning.

TESTIMONY OF THOMAS MARSHALL.

Thomas Marshall, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Grosvenor:

Question. Are you acquainted with Edmonds?

Answer. I am not personally acquainted with him. I know him by sight.

Q. Did you know him last February?

A. Yes, sir.

Q. Did you know him a year ago last February?

A. No, sir.

Q. Were you present at any time, when he was, with his clerks, engaged in drinking?

A. I never saw them but once together.

Q. When was that?

A. I think it was the night when Mr. Conkling was married.

Q. Did you see him in February, before that?

A. No, sir. I was not acquainted with him until he came there to board; and I was not much acquainted with him then. I knew him by sight.

Q. Had you never seen him intoxicated, before that time?

A. I did not see him intoxicated then.

Q. Whether you had ever seen him intoxicated, before that time?

A. No, sir.

Q. Did you at that time?

A. We drank two or three times; and I went up stairs to get out of the crowd, and stayed their until morning.

Q. State whether he was under the influence of liquor at the time you left.

A. I think they were all feeling pretty well.

CROSS-EXAMINATION OF THOMAS MARSHALL.

Examined by Mr. McGowan.

Question. What time did you go up stairs?

Answer. I went up at half-past eight; went up with my wife. She was not my wife then.

Q. Did you return to the bar-room below?

A. Not until morning. I stayed with her until about half-past eleven, and I went into another room; and she was afraid I would go down stairs, and she took the key and locked me in the room until morning.

Q. What did you say at the foot of the stairs to Deputy Sheriff Baker?

A. I do not remember seeing him that night.

Q. You recollect you stayed with the lady who is now your wife, until about half-past eleven?

A. Yes, sir; and then I thought I would go to my room, and she told me I had not better go there, they would come there after me, and I heard some one go to my room. So I went into Jesse Conkling's room, and she locked me in and put the key in her pocket. I probably would have gone down if I had got out.

Q. Did you that night say to Baker, "It is all right, Jim; we have got Edmonds to bed?"

A. I don't remember seeing him that night at all. I saw him at another spree, a week after,—not at the time Edmonds was there.

Q. You saw Baker on another spree?

A. No.

Q. You saw him at another spree?

A. Not Baker,—myself and some of the boys.

Q. You saw Baker at that time?

A. Yes, sir.

Q. Do you state now you were not at the foot of the stairs between ten and eleven?

A. I was not down after half-past eight.

Q. You say you did not know Edmonds a year ago this last February?

A. I did not know him until he came there to board.

Q. Did you have your shirt torn?

A. Not at that time. Another time, a week after that, a lot of the boys were there.

Q. Did Edmonds have anything to do with it?

A. Edmonds was not there at all.

Q. Can you give the time that you had that spree or wedding?

A. I think it was in the spring sometime; I could not say.

Q. Did you help Edmonds up stairs that night?

A. I told you I went up stairs at half-past eight.

Q. Did you help him up stairs at all?

A. No, sir; I can prove by a dozen men I did not.

RE-EXAMINATION OF THOMAS MARSHALL.

Examined by Mr. Manager Cochrane:

Question. Had the gentlemen who were down below got a pretty good start at half-past eight oclock?

Answer. They had a pretty good start. I thought I would get out of the way as quick as I could, and I stole away and creeped off.

Q. Did the noise continue until late?

A. It continued until I went into the room at half-past eleven or twelve.

Q. Did you "hoist" in any more after you left?

A. No, sir.

Q. At any subsequent time when there was a spree at that house, did you say anything to Mr. Baker similar to what he stated here on the stand?

A. I do not remember as to that. I know that the State House boys came upstairs once, and got me out of bed one night, about a week after that, and got me down, and got to drinking, and tore my shirt part off, and I got away from them that night.

Q. What boys were they?

A. The State House boys.

Q. Who were they?

A. Mr. Griswold, Mr. Dunham, and three or four others—I cannot remember which—came there.

Q. Any other clerks at the Land Office?

A. I do not remember the rest.

Q. Clarke there?

A. I do not think he was. I was not acquainted with him.

Q. Did you see Baker the night you got your shirt torn?

A. I shall not be sure that I saw him that night, or not.

Q. What is your impression?

A. I might have seen him—I cannot tell.

Q. Do you know under what circumstances, if you saw him? Have you any recollection about it—any impression?

A. I have not got any impression; if I saw him at all, it was not that night. This night I did not see Baker at all; I was not down.

Q. Have you any impression of saying any such thing to him as he stated?

A. I do not. I might have said it that night. I know there was sombody carried up stairs that night. This was on Saturday night. Edmonds was not there that night.

Q. Who was it that was carried up stairs?

A. I cannot tell, I was pretty tight myself. I know I got

up stairs, and knew enough to lock my room, so that they could not get in again.

Q. Was it one—only one—that was carried up stairs?

A. I cannot tell.

Q. Your best recollection about it.

A. I cannot tell.

Q. Was there any one else drinking there, except the clerks and the others?

A. Six, eight, or ten.

Q. Were you in a pretty fair condition to recollect what took place that first night?

A. Oh, yes.

The Presiding Officer—The Senate, sitting as a Court of Impeachment, will adjourn until to-morrow morning, at nine o'clock.

Lansing, Tuesday, May 14, 1872.

The Senate met, and was called to order by the President, Hon. Morgan Bates.

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

Senator Sheley—Mr. President, I see Senator Morton in his seat. He has not been sworn in.

Senator Morton came forward and took the oath.

The President called the President *pro tem.* to the chair.

The Presiding Officer—The Honorable Managers on the part of the House of Representatives will proceed in support of their articles of impeachment. Senators will please give their attention.

S. V. CORNELL, RECALLED.

Examined by Mr. Manager Grosvenor:

Question. On your testimony, when upon the stand last, I

understood you to say that you received the descriptions of the lands you entered from Van Dunham?

Answer. Yes, sir.

Q. Before you looked at those lands, did you have them reserved for you on the plats in the office?

A. I think some of them were. I don't know whether they were all or not.

Q. How did you have that done, and by whom?

A. I think it was some man by the name of Hewitt.

Q. Cyrus Hewitt?

A. Yes, sir, I think that was the name.

Q. What was the agreement, if any, between you and Mr. Hewitt about reserving those lands?

A. Well, I don't remember the length of time they were reserved, now.

Q. What was the agreement between you and Mr. Hewitt about reserving the lands?

A. The agreement was that I was to give him ten dollars.

Q. How long was he to reserve it for you?

A. Well, as I said before, I don't know as I could state the time, but I think thirty days.

Q. You paid Mr. Hewitt.

A. Yes, sir.

Q. Before or after you entered the lands?

A. Before, I think.

Q. Before you looked at them?

A. Well, I think I went to look at some of the lands before I saw Mr. Hewitt.

Q. Do you know which ones?

A. I think it was the piece at Eaton Rapids, and a piece I went to look at near Charlotte.

Q. Did you enter that piece?

A. At Charlotte?

Q. Yes, sir.

A. No, sir.

Q. How did you know that it was necessary to have them reserved?

A. I think Mr. Van Dunham told me.

Q. Why did you not buy them alone without having them reserved?

A. Because I would rather see them; I—

Q. Who directed you to Mr. Hewitt?

A. I think it was Van Dunham.

Q. Was Mr. Hewitt a stranger to you at that time?

A. Yes, sir.

Q. Did you call upon him alone, or did Van Dunham go with you when you called upon Hewitt?

A. I am not certain whether I went alone or whether Mr. Van Dunham was with me.

Q. Do you remember whether you were introduced to Mr. Hewitt by any one?

A. It is my impression that I introduced myself to him.

Q. In whose name where those lands reserved?

A. They were issued in my name.

Q. Reserved in your name?

A. Yes, sir; that is, I suppose so.

Q. Do you know how they were marked upon the plats?

A. No, I do not.

Q. Did you not look upon the plats, in the office, after they were reserved to you?

A. I do not remember whether I did or not.

Q. How did you know they were reserved,—Van Dunham say anything to you about it?

A. No. I think Mr. Hewitt gave me a paper. This was in the bank,—he had business done. He gave me a paper, and I carried it to Mr. Robinson, I think his name is.

CROSS-EXAMINATION OF S. V. CORNELL.

Cross-examined by Mr. McGowan:

Question. Was that paper what they denominated scrip?

Answer. Yes, sir.

Q. It was on that you had your reservations made?

A. Yes, sir.

Q. Did you say you had the land at Eaton Rapids reserved on that scrip?

A. I do not think I did. I think I went to see the land, and some other pieces near Charlotte, before I saw Hewitt.

Q. The other land you purchased you had reserved on this scrip, did you?

A. Yes, sir.

Q. Did you have any reserved that you did not purchase?

A. Yes, sir.

Q. Do you know what became of that?

A. No, sir.

Q. Do you know what the paper was that Hewitt gave you? Did you read it?

A. I do not think I read it over at all.

TESTIMONY OF JAMES CUMMIN.

James Cummin, a witness, produced, sworn, and examined on the part of the House of Representatives, testified as follows:

Examined by Mr. Manager Grosvenor:

Question. Where do you reside?

Answer. Corunna, Shiawasee county.

Q. How long have you resided there?

A. Thirty years.

Q. What is your business now in that county?

A. County treasurer, sir.

Q. How long have you been county treasurer of that county?

A. Over thirteen years.

Q. Are you acquainted with a person in that county, by the name of Bouck?

A. Not much; I have seen the man two or three times.

Q. You know him?

A. Yes, sir.

Q. Do you know where he resides?

A. In the town of Venice.

Q. Do you know how long he has resided there?

A. I do not, sir.

Q. What is his business?

A. He is trying to get a living, upon a small scale, farming.

Q. Are you acquainted with the description of land, upon which he resides?

A. No, sir.

Q. You would know it, if you should hear it stated?

A. It is in section 36.

Q. 7 N., 4 E.?

A. That is the town.

Q. N. W. ¼ of the S. W. ¼?

A. I could not say, positively, sir.

Q. Do you know whether he had any trouble with the title to the land he lives upon?

A. Yes, sir; he came to my office—

Q. Did you assist him any in relation to that?

A. A little, sir.

Q. At his request?

A. Yes, sir.

Q. Did you have any conversation with the Commissioner of the State Land Office?

A. Yes, sir.

Q. Do any business with him in relation to that?

A. I brought Bouck out here; told him he had better go, last November, and see the Commissioner himself. He made some excuse that he could not very well. I inquired into it and he said he could not come until he should mortgage his cattle; he had no money. I told him he need not do that,—I would lend him five dollars. I lent him five dollars; he claimed to be a very poor man. He came out and I got an introduction to Commissioner Edmonds; took this gentleman and introduced him to him, and he told his own story. I went about a month or two after to see Mr. Edmonds about this

matter. I wanted him to intercede for Bouck and get the land,—get the gentleman to cancel it.

Q. Do you remember who had the land?

A. I think it was Cornell.

Q. Of Coldwater?

A. Yes, sir. Mr. Edmonds said the gentleman lived in Coldwater—he said he knew him. He said he would see him and see if he could not make some arrangement to get the land back for Bouck.

Q. What follows? Before you begin to talk about another transaction, I will ask you whether you made any offers to pay anything?

A. I told Edmonds if there was any expenses, $20 or $30, I would pay it myself if it could be fixed up.

Q. What did Edmonds say?

A. I think he said he felt sorry for the man; he would do the best he could for him; or something of that import.

Q. What did he say about his trying to persuade him to accept the money?

A. I do not know that he said anything about that, particularly. He said he would see him, and see what he could do.

Q. What did he say about your proposition to pay him twenty or thirty dollars for his trouble?

A. I do not know that he said anything.

Q. Do not remember any reply?

A. I do not, sir.

Q. If you had another conversation with him—

Mr. Shipman—Did he mean to say he was to pay Edmonds twenty or thirty dollars for his trouble, or Mr. Cornell?

Mr. Manager Huston—That was his proposition to Edmonds; he would pay Edmonds for his trouble, and Edmonds said he would see Cornell.

The Witness—I want to say that it was to be paid to Edmonds. I supposed, of course, that it would be necessary to grease the wheel a little, and I would willingly pay that much

expenses. I do not know that it was particularly to be given to Edmonds or anybody else. I supposed probably Cornell, more than any one else, was the inference I drew from it.

Q. Did you have another conversation with Edmonds upon the subject?

A. No, sir; never had but two.

Q. Did you have any correspondence with Edmonds about it?

A. I received a letter sometime after that from Edmonds,—at least, I supposed it was from him. It was under his signature.

Q. State whether that is the letter?

A. Yes, sir.

[Letter introduced in evidence, as follows:]

STATE OF MICHIGAN, STATE LAND OFFICE,
Lansing, January 16, 1872.

"*Mr. James Cummin, Corunna:*

"DEAR SIR—I saw Cornell, the purchaser of the N. W. ¼ of S. W. ¼, Sec. 36, T. 7 N., R. 4 E. (licensed by Bouck), and he will relinquish his claim and surrender his papers on the payment of one hundred and sixty-five dollars,—says he has had better offers by a party owning adjoining land.

"By his surrendering his papers, I could cancel the sale and give Bouck the benefit of the purchase money, $50, which would leave $115 to pay.

"I tried to persuade Cornell to do a little better, but that was the best proposition he would make.

"His address is S. V. Cornell, Coldwater, Mich.

"Very truly yours,

"CHAS. A. EDNONDS,

"*Commissioner.*"

Question. Does Mr. Bouck reside on that land now?

Answer. He said, the last time I saw him,—ten days ago,—that he did.

Q. Have you any personal knowledge of the trade between Cornell and Bouck?

A. Nothing only what Bouck told me.

CROSS-EXAMINATION OF JAMES CUMMIN.

Cross-examined by Mr. McGowan:

Question. What time in November did you come down here?

Answer. The forepart.

Q. Is that the time you brought Bouck with you?

A. Yes, sir.

Q. Had a talk with Edmonds in the presence of Bouck?

A. Yes, sir.

Q. Did I understand you to say that you came again, a month afterwards, and talked with Edmonds?

A. Yes, sir. I happened to be here in Lansing, and I called to see the Commissioner.

Q. It was the last talk when you made the proposition of $20 or $30?

A. I think it was.

Q. Did Edmonds show any reluctance in assisting you in getting the land back?

A. No, sir, I do not think he did.

Q. You did not understand that it was necessary to pay Edmonds the money, at that time, to get him to act for you? He promised, readily enough, to assist what he could in getting the land back?

A. Yes, sir.

Q. State whether he said anything about his considering the land a valid sale to Cornell.

A. I do not know that he did.

Q. Was there anything said, in either of these conversations, about Bouck having forfeited his right to hold the land?

A. I think not.

Q. Not in the presence of Bouck,—was not that explained to Bouck,—that he had not filed—

A. I understood the thing a little different. I always told Bouck to stay there.

Q. I am speaking, now, of the conversation.

A. I do not know what there was. There might have been.

Q. Was there anything said in the conversation, when Bouck was present, about the three months' proof.

A. I do not know but there was. I could not say positively.

Q. Did Bouck ask you for an explanation of how his land was sold away from him? He had settled upon it as a homestead.

A. I do not know that he did. He seemed to be a man that did not understand those things.

Q. You say now in neither of these conversations with the Commissioner that either you or he talked about Bouck forfeiting the land on failure of filing his three months' proof?

A. It might have been said, and it might not have been; I could not say distinctly.

Q. Did you understand how it was claimed, on the part of the Commissioner of the Land Office, that he had forfeited?

A. Yes, sir.

Q. You understood it, for want of three months' proof?

A. Yes, sir.

Q. State whether you indicated, to Mr. Bouck, the contents of this letter?

A. I did not, sir; I thought it was too big.

Q. More than the man could stand?

A. Yes, sir; he could not pay it; it was no use.

Q. Did you see Mr. Bouck along in January, after you received this letter?

A. No, sir; I never sent him word. I had a letter to tell him to stay there.

Q. Did you not see him at one time and tell him that Edmonds had not written you as he promised you?

A. I did.

Q. When was that?

A. Prior to my receiving that letter.

Q. About how long was it after you were here the second time before you received this letter from Edmonds?

A. I cannot say. It might have been two or three months, and it might not have been so long. I did not keep particular track of the thing.

Q. What is the date of that letter?

A. I don't recollect the date now.

Q. You first came here in November with Mr. Bouck?

A. Yes, sir.

Q. Do you remember what time in November?

A. The forepart of November. It might be the 8th, 10th, or 12th. I came out here to make my returns.

Q. What was the occasion of your coming here the second time?

A. There was an insurance company called the Lansing State Insurance Company, and I had a little stock in it, and I received a letter from the directors that it was necessary to be here.

Q. Can you fix it by that?

A. I cannot. That was the reason I came here.

Q. Where did you stop,—at the Lansing House?

A. Yes, sir.

Q. Did you register your name there?

A. Yes; I generally do.

Q. You think it might have been two or three months after you received this letter?

A. No, not so long: probably a month or five weeks,—maybe six weeks. I think it could not have been more than that I would rather not fix the time. I could not say within a week or ten days. I did not think it was of any account, and I let the thing pass.

RE-EXAMINATION OF JAMES CUMMIN.

Re-examined by Mr. Manager Grosvenor:

Question. In that conversation between Mr. Edmonds and yourself, and Mr. Bouck, state whether Mr. Edmonds was informed of the time that Bouck had lived upon the land, and the improvements he had made upon it?

Answer. Yes, sir.

Q. All those circumstances were related?

A. Yes, I think it was. I think it was talked over how long he had been there and what he had done.

H. D. BARTHOLOMEW RECALLED.

Examined by Mr. Manager Huston:

Question. I want to call your attention to a sale to S. V. Cornell, of a piece of swamp land, in town 7 north, 4 east. Look at the book and see whether you find anything in regard to that sale. That is one of the books of the State Treasurer's office, you have there?

Answer. Yes, sir. I find, Oct. 18th, 1871, the N. W. ¼ of the S. W. ¼, section 36, town 7 N., 4 E., sold to Samuel V. Cornell.

Q. What was paid for it?

A. It was forty acres,—fifty dollars. It was paid in scrip.

Q. Charged to whom?

A. Charged to Wm. A. Barnard.

Q. Do you find any entry in the first book you looked at in regard to these lands, made after the date you referred to?

A. I find it entered in red ink, "Surrendered and canceled Feb. 27, 1872."

Q. For what reason was that sale to Cornell canceled? What was the reason assigned in the Land Office for canceling that sale.

A. The only reason that has been assigned in such a case, and the reason I always insist upon, is that it was sold in error, —a mistake of the Land Office in this case. Mr. Robinson, I think, in every instance,—I remember in every instance,—he came and said it was licensed or sold in error, and canceled. They wanted it canceled, claiming it to be an error in the Land Office. For that reason, the hammer was struck through the signature of the State Treasurer, and the certificate canceled, and this entry made.

Q. And the amount of scrip credited back to Cornell?

A. I will see as to that. At the same time, directions are always given. Yes, it is credited back to Barnard & Co.

Q. What did you understand about being sold in error? If they did not know at the time of the sale that it was licensed?

A. Nothing specific as to that; but it was licensed by some mistake. I inquired what kind of a mistake, and it was sold to another party.

CROSS-EXAMINATION OF H. D. BARTHOLOMEW.

Cross-examined by Mr. McGowan:

Question. You say you were instructed by Barnard as to the cancelation?

Answer. No, sir; by Mr. Robinson.

Q. Was there anything different in the statement of Robinson in this instance from other instances where cancelations were asked?

A. There has been two or three cases similar to this, where licenses run, and there have been other instances where the lands were not licensed, and he would say that it had been previously sold,—that there was a mistake in the description,—claiming it to be an entire error of the Land Office.

Q. Did he, in each case, say it was their entire error?

A. Yes.

Q. Whether this case struck you as peculiar, in the way Robinson stated it, or whether it was the usual way?

A. No; that was the usual way.

Mr. Manager Grosvenor—I offer in evidence a certificate from the Auditor General of this State, as to the cancelation of certain lands that have been referred to.

Mr. McGowan—There is no objection.

Mr. Manager Grosvenor—We claim that this testimony is one link in the chain which we claim tends to show knowledge on the part of the respondent of certain transactions in the office.

The following are the papers referred to:

[EXHIBIT MM.]

STATE OF MICHIGAN, AUDITOR GENERAL'S OFFICE,
Lansing, May 13, 1872.

I hereby certify that the accompanying abstracts, marked respectively "A" and "B," set forth correctly the amount of taxes assessed against the several descriptions of land therein contained, and for the years designated; and also the amount of such taxes rejected and charged back for each of such years.

WM. HUMPHREY,
Auditor General of the State of Michigan.

ABSTRACT A.

STATEMENT of taxes of 1869 assessed against the several descriptions of Lands as stated below, and returned to the Office of the Auditor General; also the amount of such taxes rejected as assessed upon State Swamp Lands.

SUBDIVISION OF COUNTIES.	State Tax.	County Tax.	Town Tax.	Road Tax.	School Tax.	Ditch Tax.	Agricultural Tax.	Total Amount.	REMARKS.
S w ¼ of s w ¼, Sec. 4, 12 n 6 e	$ 22	$ 86	$1 07	$ 80	$1 20	$ 26	.....	$4 41	Rejected State Swamp Land.
W ½ of n w ¼, Sec. 4, 12 n 6 e	27	1 08	1 33	1 00	1 50	33	.....	5 51	" " " "
N ½ of s w ¼, Sec. 4, 12 n 6 E	22	1 80	1 60	1 20	1 80	29	.....	6 61	" " " "
Entire Sec. 5, 12 n 6 e	2 66	8 10	10 00	7 50	1 80	2 44	.....	31 57	" " " "
S e ¼ of s e ¼, Sec. 6, 12 n 6 e	14	54	67	50	10	16	.....	2 11	" " " "
E ½ of n e ¼, Sec. 7, 12 n 6 e	22	1 80	1 60	1 20	24	29	.....	5 05	" " " "
S w ¼ of n w ¼, Sec. 7, 12 n 6 e	16	65	80	60	12	20	.....	2 58	" " " "
S w ¼ of s w ¼, Sec. 7, 12 n 6 e	22	86	1 07	80	16	26	.....	3 37	" " " "
S w ¼ of s w ¼, Sec. 8, 12 n 6 e	22	86	1 07	80	1 20	26	.....	4 41	" " " "
N e ¼ of s e ¼, Sec. 8, 12 n 6 e	22	86	1 07	80	1 20	26	.....	4 41	" " " "
N w ¼ of n w ¼, Sec. 9, 12 n 6 e	16	65	80	60	90	20	.....	3 31	" " " "
N w fl ¼, Sec. 18, 12 n 6 e	86	3 46	4 27	3 20	64	1 04	.....	13 47	" " " "
W ½ of s w ¼, Sec. 18, 12 n 6 e	68	2 70	3 33	2 50	50	81	.....	10 52	" " " "
S e ¼ of n e ¼, Sec. 17, 13 n 6 e	20	2 61	2 40	.....	1 61	.....	$ 01	6 98	Charged County.
S e ¼ of n w ¼, Sec. 22, 13 n 6 e	16	65	80	60	12	20	.....	2 58	Rejected State Swamp Land.
N e ¼ of s e ¼, Sec. 27, 13 n 6 e	13	54	67	50	10	16	.....	2 10	" " " "
E ½ of s w ¼, Sec. 27, 13 n 6 e	22	1 80	1 60	1 20	24	47 33	.....	52 64	" " " "
S e ¼ of n e ¼, Sec. 31, 13 n 6 e	16	65	80	60	1 92	28 80	.....	32 13	" " " "
E ½ of s e ¼, Sec. 31, 13 n 6 e	27	1 08	1 33	1 00	3 20	27 79	.....	34 67	" " " "
W ½ of s w ¼, Sec. 32, 13 n 6 e	27	1 08	1 33	1 00	3 20	27 79	.....	34 67	" " " "
N w ¼, Sec. 34, 13 n 6 e	65	2 59	3 20	2 40	48	111 63	.....	120 95	" " " "
N w ¼ of n e ¼, Sec. 34, 13 n 6 e	14	54	67	50	10	16	.....	2 11	" " " "
Amount of tax discharged	$8 12	$34 26	$41 48	$29 80	$92 02	$250 71	$ 01	$385 91	

ABSTRACT B.

STATEMENT of taxes of 1870 assessed against the several descriptions of Lands as stated below, and returned to the office of the Auditor General; also, of the amount of such taxes rejected as assessed upon State Swamp Lands.

SUBDIVISION OF SECTIONS.	State Tax.	County Tax.	Town Tax.	Road Tax.	School Tax.	Agricultural Tax.	Total Amount.	REMARKS.
S w ¼ of n w ¼, Sec. 18, 12 n 6 c	$0 19	$0 98	$0 46	$0 81	$0 82	.....	$2 76	Sold State, October, 1871, for $4 90.
W ½ of s w ¼, Sec. 18, 12 n 6 e	60	3 00	1 40	2 50	1 00	.....	8 50	Paid, April 6, 1871.
W ½ of s w ¼, Sec. 32, 13 n 6 e	24	1 20	56	1 00	3 00	.....	6 00	Sold State, October, 1871, for $3 70.
	$1 03	$5 18	$2 42	$4 31	$4 82	.....	$17 26	
S w ¼ of s w ¼, Sec. 4, 12 n 6 c	$0 19	$0 96	$0 45	$0 80	$1 25	.....	$3 65	Rejected State Swamp Land.
W ½ of n w ¼, Sec. 4, 12 n 6 e	24	1 20	56	1 00	1 56	.....	4 56	" " " "
N ½ of s w ¼, Sec. 4, 12 n 6 e	29	1 44	67	1 20	1 87	.....	5 47	" " " "
Entire Sec. 5, 12 n 6 e	1 80	9 00	4 20	9 50	3 00	.....	25 50	" " " "
S e ¼ of s e ¼, Sec. 6, 12 n 6 e	12	60	28	50	20	.....	1 70	" " " "
E ½ of n e ¼, Sec. 7, 12 n 6 e	29	1 44	67	1 20	48	.....	4 08	" " " "
S w ¼ of n w ¼, Sec. 7, 12 n 6 e	14	72	34	60	24	.....	2 04	" " " "
S w ¼ of s w ¼, Sec. 7, 12 n 6 e	19	96	45	90	32	.....	2 72	" " " "
S w ¼ of s w ¼, Sec. 8, 12 n 6 e	19	96	45	80	1 25	.....	3 65	" " " "
N e ¼ of n e ¼, Sec. 8, 12 n 6 e	19	96	45	80	1 25	.....	3 65	" " " "
N w ¼ of n w ¼, Sec. 9, 12 n 6 e	14	72	34	60	94	.....	2 74	" " " "
E ½ of n w fl ¼, Sec. 18, 12 n 6 e	38	1 96	92	1 68	64	.....	5 56	" " " "
N w ¼ of n w fl ¼, Sec. 18, 12 n 6 e	19	98	46	81	32	.....	2 76	" " " "
S e ¼ of n e ¼, Sec. 17, 13 n 6 e	19	3 90	1 48	1 20	2 58	$0 01	9 86	Charged County.
S e ¼ of n w ¼, Sec. 22, 13 n 6 e	14	98	34	60	24	.....	2 05	Rejected State Swamp Land.
N e ¼ of s e ¼, Sec. 27, 13 n 6 e	12	60	28	50	20	.....	1 70	" " " "
E ½ of s w ¼, Sec. 27, 13 n 6 e	29	1 44	67	1 20	48	.....	4 08	" " " "
S e ¼ of n e ¼, Sec. 31, 13 n 6 e	14	72	34	60	1 80	.....	3 60	" " " "
E ½ of s e ¼, Sec. 31, 13 n 6 e	24	1 20	56	1 00	3 00	.....	6 00	" " " "
N w ¼, Sec. 34, 13 n 6 e	58	2 88	1 34	2 40	96	.....	8 16	" " " "
N w ¼ of n e ¼, Sec. 34, 13 n 6 e	12	60	28	50	20	.....	1 70	" " " "
Amount of tax discharged	$6 17	$33 07	$15 58	$26 24	$22 78	$0 01	$104 70	

O. B. QUIGLEY, RECALLED.

Examined by Mr. Manager Grosvenor:

Question. I think you have stated that you are acquainted with Mr. Edmonds?

Answer. I believe so; yes, sir.

Q. A number of years?

A. Yes, sir. I said two years, I think.

Q. Are you acquainted enough with his habits, seen enough of him, during the past two years, to state as to his conduct, touching his temperance and sobriety?

Mr. McGowan—Does the question go back?

Mr. Manager Grosvenor—During the past two years, since 1871. [To witness:] State whether you have been intimate enough with him to learn anything of his transactions,—that is, his general habits of drinking. I am not asking you what they are, but whether you have been familiarly acquainted enough to state?

Answer. Yes, sir, I have been familiar with him, and acquainted, so far as that matter is concerned.

Q. Will you state whether you have seen him intoxicated, from the too free use of ardent spirits, since January, 1871?

A. What do you mean, when you ask me "intoxicated?"

Q. Well, under the influence of spirituous liquors?

A. I think I have seen him under the influence of spirituous liquors, so he felt them.

Q. When?

A. Well, on one particular occasion, along about last April, —a year ago this last April,—1871.

Q. Where was it?

A. At the Chapman House?

Q. To what extent, was he under the influence of liquor; enough to incapacitate him for business, or otherwise?

A. No, I don't think he was so but what he could do business?

Q. To what extent was he under the influence of liquor?

A. Well, he was there with a general crowd, and they were generally drunk, that is, what I call pretty full,—the crowd; and he with the rest. I could not see any particular difference in any of them.

Q. Who was there of persons connected with the Land Office, if any?

A. Mr. Bowen, Mr. Edmonds, and I don't know that I could mention anybody else particularly, of the Land Office, that was there.

Q. Do you know Van Dunham?

A. Yes, sir.

Q. Do you remember whether he was there?

A. I could not state whether he was there or not; I am inclined to think that he was there, but positively, I could not say.

Q. What time of the day or night was it?

A. I should think it was about nine o'clock in the evening that I saw him; perhaps half-past nine.

Q. Do you know of his being engaged in similar conduct at any other time?

A. No, sir; not in that shape.

Q. In any other shape when he has been drinking?

A. I never saw him under the influence of liquor—that is, like that—before or since that time. I have seen him taking a drink now and then occasionally, like a great many others.

Q. State whether you have ever been in the rooms of his clerks in the Chapman House.

A. Yes, sir, I have.

Q. Engaged in drinking?

A. Yes, sir.

Q. With whom?

A. With myself, and all his clerks;—that is, not all his clerks, but myself, Mr. Van Dunham, Mr. Bowen, Mr. Griswold, and I don't know as I can name the balance of them.

Q. To what extent were they drinking?

A. Well, drinking when they wanted it.

O. Well, were they drinking freely?

A. Yes, sir, I think so; I was.

Q. Were they drinking to excess, any of them,—any of his clerks, or himself?

A. Yes, sir, I think they were.

Q. So as to impair their faculties?

A. I thought so.

Q. Do you remember of any occasion any of them attempting to get out of the house through the scuttle?

A. I heard other parties talking that.

Q. Don't know it yourself?

A. I don't know it myself.

Q. How often have you known of that,—those transactions?

A. I could not enumerate them; but quite a number of times.

CROSS-EXAMINATION OF O. B. QUIGLEY.

Cross-examined by Mr. McGowan:

Question. You have been acquainted with Mr. Edmonds about two years?

Answer. Yes, sir; personally acquainted with him, I think, about that time.

Q. How long have you lived in Coldwater; about twelve or thirteen years, have you not?

A. I moved to Coldwater in 1859.

Q. You were there steadily until a couple of years ago, were you not?

A. No; not all the time. Two or three years after I went to Coldwater I was away considerable, and for the past three years—it will be four years the 29th day of January—I was away considerable.

Q. From 1865 to 1870, you were there constantly, were you not?

A. I think I was.

Q. You were in business there?

A. Yes, sir.

Q. Livery business?

A. Yes, sir.

Q. Pretty well acquainted, were you not?

A. Yes, sir.

Q. Do you know whether Mr. Edmonds was there at that time?

A. The first I ever heard of Mr. Edmonds being in Coldwater,—the first I ever heard particularly of Mr. Edmonds, was when he first run for register.

Q. Register of deeds?

A. Yes, sir.

Q. Do you know that he was an an officer there,—register of deeds, for four years?

A I don't know how long he was register of deeds,—I don't remember.

Q. You don't remember?

A. No, sir.

Q. Did you have any acquaintance with him while he was register of deeds?

A. I think I did.

Q. You were in business during the whole time he was register of deeds?

A. In Coldwater?

Q. Yes, sir.

A. I presume I was there, if I was there at the time you speak of.

Q. You have had no particular acquaintance with him, until within the last two years?

A. No, sir, not personal acquaintance; I have heard of him.

Q. You knew the man, by sight, previous to that?

A. Previous to what?

Q. Previous to two years ago.

A. I think I did; I think I probably may have seen him, but not enough to recognize him.

Q. Do you say it was a year ago last April, that you were at the Chapman House?

A. I think it was in April. It was last year; a year ago last April, I think it was.

Q. Was that the occasion of Conkling's marriage, soon after his marriage?

A. That was the ratification of his marriage.

Q. How do you fix the time of its being in April?

A. Well, from the time I was there myself.

Q. Have you any memorandum?

A. I think I have bills. I was boarding a lot of men there, and I think I could go to my bills and tell nearly the exact date, with a little trouble, but I did not take pains to do it.

Q. Was it as late as July?

A. It was not, I don't think.

Q. You say you saw Mr. Edmonds as late as half-past nine that night?

A. I think I did, because I retired at about ten, and he was there when I went away.

Q. You went upstairs a while before you retired?

A. To my room?

Q. To your room?

A. I don't think I came back after I went to my room. My wife was there at the time. I don't think I came back. A lot of them came to the door and banged away at the door to try to get me out of the room.

Q. Did you not run away from them, and did not they come up after you?

A. I think that was the case.

Q. Did not you go up a little earlier than that?

A. I don't think I did. I was appointed as a committee of three to go up and get Mr. Conkling.

Q. You got him?

A. Yes, sir; he said he would come down, and he did come down.

Q. And then the ratification commenced?

A. Well, I should say so, from the sounds about two o'clock in the morning.

Q. Did you help to ratify?

A. Not that I know of, sir.

Q. Did not you drink any?

A. I think I drank once; perhaps twice.

Q. Is it not possible that you drank three times?

A. I do not think I did, not on that occasion.

Q. What were they drinking?

A. I do not know that I could tell.

Q. What did you drink?

A. I drank whisky.

Q. Probably drank twice?

A. I think I drank twice; I think that is all I did drink.

Q. You think Edmonds was under the influence of liquor?

A. I think he acted like I do when I am under the influence of liquor, or any other man. He was drinking often enough.

Q. Were you ever there at any other time when they had a kind of spree at the Chapman House?

A. I have been there when I have seen the clerks have sprees; but not Edmonds.

Q. Do you remember one occasion when a man by the name of Tom Marshall had his shirt torn.

A. I do not remember that time. I heard of the occasion; I do not know the time.

Q. Were you there one time when they carried you up stairs?

A. I never was there when they carried me up stairs, that I remember of.

Q. Were you ever carried up stairs at the Chapman House?

A. I do not think I ever was.

Q. What is your best recollection?

A. My recollection is that I was not. I might have been, though,—most every man was carried up that ever stopped there.

Q. That is a fact, is it?

A. A good many have, at least.

Q. They were somewhat in the habit of carrying men upstairs at the Chapman House?

A. They were, to say the least; there was a great deal of drinking and carousing; a bad place for a man to stop.

Q. Is that the reason why you stopped there?

A. No, sir; I stopped there because I could not stop at the Lansing House. The Legislature was in session.

Q. You were in Edmonds' room, I understood you to say.

A. No, sir, I did not say I was in Edmonds' room. I was in his clerks' room. I have just stepped into Edmonds' room, but not for the purpose of playing cards and drinking.

Q. All this drinking and playing cards was in some of the clerks' rooms?

A. Yes, sir.

Q. Was Edmonds always present when you were present?

A. I would not say always. He was present a great many times.

Q. What do you mean by a great many times?

A. When I came in, we made it a practice of going up there and playing cards, and having something to drink.

Q. About how often were you ever in the clerks' rooms when Edmonds was present?

A. I could not enumerate the times.

Q. As frequently as once a week?

A. Sometimes I would be there a week, and sometimes I would not be there in two weeks again.

Q. How much time did you stop there?

A. I could not tell you.

Q. Cannot you give us some idea of how much time you spent at the Chapman House?

A. I do not think I could give you any idea. I was there as occasion required.

Q. When did you first go there?

A. I think when I first went there I came here in February or January. I came here when the Legislature was in session, —before this last time,—and they were full at the Lansing

House, and I went there and stopped there until the 4th of July following, when I paid my bills and went to the Lansing House?

Q. From January to July you were at the Chapman House when you were in Lansing?

A. I think it was.

Q. How frequently were you in Lansing during that time?

A. I could not tell you. I came and went as occasion required.

Q. You can tell something about it?

A. No, sir. I cannot tell. I was here once and more than once.

Q. Were you here half your time?

A. No, sir.

Q. A quarter of your time?

A. I cannot tell.

Q. Would you average once a week?

A. I would come and stay a week or three or four days, and then I would not be here for several weeks.

Q. What was the longest time at any one time between January and July?

A. I cannot tell you.

Q. What is your best recollection?

A. I have no recollection.

Q. You might have stayed a fortnight?

A. No, sir.

Q. Did you stay a week?

A. Yes, sir.

Q. More than one time did you stay a week?

A. I would not say that I stayed a week at any one time. I was a frequenter of the house right along.

Q. Did you not come in, usually, the latter part of the week?

A. That is our custom.

Q. To come to your stopping-place Saturday?

A. Yes. After the first of April, I did not stop here a week at any one time. I was off making collections, and would

come back and make this a kind of stopping-place. After the month of April my teams were out through the country and I was off with them.

Q. Was Edmonds at the Chapman House all the time you were there?

A. I could not tell you that.

Q. Do you not know that he left there two or three months before you did?

A. I remember one thing,—that he had left when I came back the Fourth of July, and some of his clerks had left the Chapman House.

Q. Can you give us some idea about the time you first met Edmonds at the Chapman House?

A. Not the dates. I think the first time I met him in Lansing was at the Chapman House, but I cannot tell you the dates, because I take no memorandum of such things.

Q. Do you think you saw him there in January?

A. It might have been possible I saw him there. I could not tell you the dates.

Q. Do you think you saw him there as late as February?

A. You may say February was one of the months when I met him there.

Q. When you had your good time?

A. Yes, sir.

Q. He was boarding there?

A. I would not say that he was boarding there,—his clerks were boarding there.

Q. At any of these times that you speak of, when you were in the clerks' rooms, and Edmonds was present,—was he boarding at any other place than the Chapman House?

A. I could not tell you where he was boarding.

Q. You know that he did board at the Chapman House, some?

A. Yes, sir.

Q. You know where his room was?

A. I think I was in his room once. I do not know that I can tell where his room was.

Q. Did you use to drink considerable at the Chapman House?

A. I did, sir. I drank when I wanted to.

Q. At the time of the ratification, did you see Edmonds just before you went up stairs?

A. I could not say that I saw him just before I went up stairs. I saw him during the time I was in the house.

Q. Did you have any talk with Edmonds that evening, that you recollect of?

A. I do not remember any conversation with Edmonds. My attention was first called to Edmonds, and another gentleman. They were getting into a fight. He was talking about licking somebody for stealing some shirts. Mr. Edmonds had not much to say.

Q. Edmonds was talking of getting into a fight?

A. No, sir. I said another gentleman, whom first my attention was called to. A man, boarding at the house, it seems, had stolen some shirts from some other parties, and I saw the parties, and they were talking about fighting.

Q. Was Edmonds mixed up with that matter?

A. He was present with the party. He did not say anything.

Q. What was it that attracted your attention to Edmonds so?

A. Because I was well acquainted with the party. I was well acquainted with Mr. Edmonds, and the other party that was talking about fighting. If they had been strangers, I might not have noticed it particularly.

Q. You say on that occasion Edmonds did not say anything?

A. Not a word. I do not remember his saying anything. My attention was particularly on the other man; but I noticed Edmonds.

Q. How long was that before you went up stairs?

A. It might have been a few minutes; I could not tell you exactly how long.

Q. Did Edmonds show any degree of intoxication at that time?

A. I should think he did.

Q. What was there about him indicated his intoxication?

A. His general appearance and manner when he was sober.

Q. What was his general appearance?

A. He was in for a great deal of fun and drinking.

Q. You were all in for fun that night?

A. I was not in for fun that night.

Q. You had your drink?

A. I had two of them; I was very fortunate to get out of it.

Q. The others were in for fun, besides Edmonds.

A. I think they were. If you had been there you would have thought so about two o'clock in the morning.

Q. You say that is the only time you ever saw him under the influence of liquor?

A. I never saw him as bad as that. I have seen him in the room when I thought he had a little too much down.

Q. Did you not get so intoxicated that you were arrested and locked up?

A. I was arrested at that house.

Q. And locked up?

A. Yes, sir; and I can explain to you the reason of that, too, if you wish.

Q. I do not care anything about it.

TESTIMONY OF G. H. COLE.

G. H. Cole, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Grosvenor:

Question. Where do you reside?

Answer. I reside in this city.

Q. How long have you resided here?

A. Eight or nine years.

Q. What is your business?

A. I am a dentist.

Q. Are you acquainted with the respondent, Captain Edmonds?

A. No, sir, I am not acquainted with him. I know him when I see him.

Q. How long have you known him?

A. Since he has been Commissioner of the State Land Office, —for nearly that length of time.

Q. Were you acquainted with him last June or July? Did you know him well enough last June or July to recognize him on the street?

A. Yes, sir.

Q. Do you know a place in this city kept by Alice McCabe?

A. I suppose I do. Yes, sir.

Q. Is that in the neighborhood where you live?

A. Yes, sir.

Q. The house in sight from your house?

A. Yes, sir.

Q. What kind of a house does she keep?

A. It is reputed to be a house of ill-fame.

Q. Will you state whether you have ever seen Mr. Edmonds going there or coming away?

A. I have seen him go from there?

Q. When?

A. I think it was the twelfth day of September, last.

Q. At what hour in the evening?

A. Between six and seven o'clock,—perhaps half-past six,— the sun was up about about half-an-hour.

Q. Half-past six o'clock in the morning?

A. Yes, sir.

Q. Why do you remember so distinctly that day?

A. It was the day that the excursion took place on the Detroit, Lansing & Lake Michigan Railway.

Q. Were you one of the excursionists?

A. I was.

Q. You stated, upon your former examination, that this was in October. Have you had any occasion to refresh your recollection about it?

A. Yes, sir; I have examined a diary that I carry, and I find it was the twelfth day of September. I thought it was the forepart of October. I did not swear positively at that time, I think.

Q. Under what circumstances did you see him go away from the house?

A. It was very nearly in front of the house, and I looked up and saw him come out, that was all.

Q. Did you hear any noise that called your attention to the house?

A. I heard the rattling of the blinds that shut over the door, and I looked up, and he was stepping over the fence.

Q. Do you know of his being there at any other time?

A. No, sir; I do not.

CROSS-EXAMINATION OF G. H. COLE.

Cross-examined by Mr. Shipman:

Question. Did you go on that excursion?

Answer. I did.

Q. Where did you go?

A. I went to Detroit.

Q. Did you get your breakfast before you went?

A. Yes, sir, I had something to eat.

Q. What time did the train start?

A. I could not tell you. We went over and waited some time. Excursion trains do not go, ever, on time.

Q. Which way did you go from your house to the depot?

A. I went the most direct way.

Q. What street?

A. I went down Cherry street.

Q. Which direction?

A. It was north.

Q. Then to what street?

A. We struck River street.

Q. And then where?

A. We came up to Grand street and went to the bridge, and down Michigan avenue to the depot.

Q. You live on Cherry street?

A. Yes, sir.

Q. Which way does that street run?

A. It runs north and south.

Q. How far is it from your house to the depot?

A. I could not tell. I should think it was a mile and a half or a mile.

Q. A mile, or a mile and a half.

A. I should think it was a mile certain.

Q. Do you live on the corner of any streets?

A. Yes, sir. I live at the corner of St. Joseph and Cherry.

Q. St. Joseph, then, would run east and west?

A. Yes, sir.

Q. On which side of St. Joseph street do you live?

A. I live on the north side.

Q. On the north side of St. Joseph, and which side of Cherry?

A. The east side.

Q. You came out, then, in front, and went straight north on Cherry?

A. I did, when I went to the depot, but I went elsewhere before I started to the depot.

Q. Where elsewhere did you go?

A. I went down on Main street, down to a neighbor of this Miss McCabe, that lives a few feet to the east.

Q. What street does this Miss McCabe, as you call her, live on?

A. She lives on Main street, I think.

Q. Which way did you go from your house to that neighbors?

A. I went the only way there was to go,—I went south.

Q. On what street?

A. On Cherry street.

Q. How far; to what street?

A. To the street she lives on, Main street.

Q. How many streets does she live from you. I mean now, east and west streets?

A. There is the width of two streets and a block, she lives from me, across St. Joseph street, and across Main street. I live on the north side of St. Joseph street, and she lives on the south side of Main street.

Q. This neighbor you speak of, lives east, or west of you.

A. Lives east.

Q. How far?

A. It is just the width of a block; four rods, I think.

Q. You went up there before you went to the depot?

A. Yes, sir.

Q. Then which way did you go?

A. I went past Miss McCabe's, until I struck about the middle of the street, and came on home.

Q. Came back the same way?

A. Yes, sir, very near.

Q. Does this neighbor live on the same side with Miss McCabe?

A. Yes, sir.

Q. Same side of Main street?

A. Yes, sir.

Q. Did you see Mr. Edmonds coming out of there when you were going up, or coming back?

A. Well, sir, when I was coming back.

Q. When you was coming back?

A. Yes, sir; I was hesitating. I went to call a man up to take care of a horse for me while I went to Detroit, and he was not up, and I was walking leisurely along, and stopping, until I got opposite, and I heard these blinds rattle and Mr. Edmonds came out.

Q. Was you in front of the house then?

A. Very near. I was not in front of the door. I guess, perhaps, I was thirty feet from the door.

Q. Which way?

A. East. He did not pass me, but went on up west.

Q. Which way were you facing?

A. I was facing west?

Q. Which way did Edmonds go?

A. He went west.

Q. You say he stepped over the fence?

A. Yes, sir; it is a low fence. He did not stop to open the gate, but stepped right over from the door-step.

Q. Did you see anybody else on the street?

A. At that time? I don't know as I saw anybody just at that time. Other people were moving around.

Q. Did you see anybody on the street, going down or coming back from this neighbor's?

A. I don't remember as I did.

Q. No other individual at all?

A. I don't remember, at the time; my neighbor was moving around, next door to me,—went out with me on the train. He was moving around on the street, in the house, and around.

Q. Did you see anybody coming down that street?

A. I don't remember as I did.

Q. Going east on Main street?

A. I don't remember as I did.

Q. How far did you go up,—to Cherry only?

A. That is all; she lives at the head of Cherry street. Cherry street runs right down to her house.

Q. She lives at the head of Cherry street?

A. Yes, sir, just where Cherry street strikes the river.

Q. She lives on the corner?

A. Yes, sir. The house has the appearance of being in the street, almost, as you are going up to it.

Q. What was it about rattling the blinds,—were the blinds open?

A. Yes, sir. The blinds swing open from the door. They hide the door when it is shut.

Q. Did you see anybody besides Mr. Edmonds around the house?

A. I did not.

Q. See anybody looking out of the blinds?

A. I did not.

Q. How close were you to him when he struck the walk?

A. Perhaps thirty feet, as near as I can tell; might have been a little more;—a very short distance, and within speaking distance, certainly.

Q. Did you notice how he was dressed?

A. Yes, sir.

Q. Will you state?

A. He had on a slouch hat, something like that [pointing to a black, soft hat], perhaps a larger brim, something the fashion of that, and he had on a blue cape.

Q. A blue cape?

A. A bluish cape, as near as I can remember now. It was not a coat; it was a sort of cape flung over the shoulder;—I have seen him wear it since.

Q. Did he go down Cherry street, or straight up Main street?

A. He went straight up Main street.

Q. Paid no attention to you?

A. No; he did not stop to speak to me.

Q. You had no conversation with him?

A. Not at all. He turned his head right around to the west, as I went on east.

Q. Did you ever speak with him before that time?

A. I never did; never spoke with him at all.

Q Did you ever meet him before this?

A. I have met him on the street a great many times, I presume.

Q. That was all the acquaintance you had with him?

A. Yes, sir.

Q. What time should you say it was that you saw him come out of there?

A. I did not look at my watch; but, judging from the height of the sun, which I distinctly remember, and by the time it would rise at that time of the year, I should think it was about half-past six o'clock.

Q. Some people don't know when the sun rises,—or, at least, from actual observation; will you give the time, by the clock, as near as you can?

A. Well, sir, I should have to judge.

Q. Would you say it was after six?

A. Yes, sir; I should judge it was half after six.

Q. Will you say it was half after six?

A. Yes, sir; I think I would be willing to say it was half after six.

Q. Was it before you had your breakfast?

A. No, sir; I was up in the morning,—that morning,—as it happened.

Q. How long did you stop at the house?

A. At what house?

Q. At your own house?

A. I went back to this house after Mr. Shattuck, where I went to get him to take care of my horse. I hesitated to call him up. My neighbor came down, and we went down together and called them up, and arranged our business, and went right up to the house, and got my overcoat and went over to the depot.

Q. Did you get over there any length of time before the train started?

A. I think we were there some minutes.

Q. Fifteen?

A. I don't know but it might have been; I should think, perhaps, it was. We were waiting there some time. The Jackson train came in and went out.

Q. How long do you think you were about your business there at the house?

A. Oh, but a very few minutes.

Q. Five minutes?

A. No. I had no business at all at the house except to get my overcoat, and we started right away.

Q. How long do you think you were going to the depot?

A. I could not tell you. Just as fast as I could walk.

Q. Probably fifteen minutes, or such a matter.

A. No, sir; I don't think I was fifteen minutes. I am like most everybody else,—anxious to get to the train,—and I walked rapidly.

Q. That would make it about half-past six, then, that you saw him?

A. I should think it was half-past six. Might have been a little before, and might have been a little later.

VAN DUNHAM, RECALLED.

Examined by Mr. Manager Cochrane:

Question. You stated, yesterday, that they allowed clerks in the office thirty days' leave of absence a year?

Answer. I believe I stated something to that effect.

Q. Was that the rule?

A. Yes, sir.

Q. That you understood to be the rule?

A. I understood that to be the rule all the time I was in the office.

Q. When do you say you went into the office?

A. In February, 1871.

Q. When did you leave?

A. I think it was the 15th or 16th of April,—about the middle of April.

Q. During the time you were there, you understood that to be the rule?

A. I did.

Q. You also stated, substantially, that where clerks were absent over that time, their pay was deducted, or a proportionate amount.

A. Yes, sir.

Q. How much of your pay was deducted, for over absence, during the time you were there?

A. I could not tell you.

Q. Can you give some estimate of it?

A. I remember of only one instance where there was anything deducted from the pay, on account of absence, and that was when I finally left the office.

Q. How much was deducted then?

A. I do not remember the exact amount. It was only a few days.

Q. Five days, or ten days?

A. I think it was only three or four; it is mere guess-work though.

Q. Do you think it was not ten days?

A. I say I think it was only three or four days.

Q. Is it your impression it was not as much as ten days?

A. It is my impression it was not as much as ten days.

Q. Is it your impression it was not as much as five days?

A. My impression is it was only three or four days.

Q. Do you remember when that absence occurred?

A. No, sir, I do not.

Q. Was anything said to you on your settlement of the account, when it occurred?

A. No, sir; I do not remember that it was.

Q. When you took those thirty days, was it the custom of the office to give thirty days all at once, or along, as the clerks requested it?

A. I think it was the custom to give it along, as the clerks requested it, provided the business of the office would permit of it.

Q. When did you take your thirty days?

A. I took mine at odd times.

Q. Have you any idea how much of the time you were absent in March, 1871. I believe you stated you were appointed in February?

A. No, sir; I do not know that I have.

Q. In the month of April, have you any idea?

A. I do not remember particularly any one month in which I was absent any extra length of time more than another.

Q. You think it would average about one month with another,—your absence?

A. No, sir; I was absent sometimes longer than others. The number of months I do not remember.

Q. Were you ever absent three days at a time?

A. Yes, I think I have been.

Q. Were you ever absent six days at a time?

A. I think I was absent at one time when I was in the office, just six days. I think that was the only case.

Q. Where did you go then?

A. I went to Coldwater.

Q. That was the only occasion.

A. That is the only occasion I think I was absent that length of time.

Q. When was that?

A. I don't remember the month that was in.

Q. Spring, or summer, or winter?

A. It is my impression that it was during the present year. It must have been this spring.

Q. As a matter of fact, were you not absent more than your thirty days during the year?

A. I do not think I was?

Q. It is your impression you were not?

A. It is my impression I was not absent more than thirty days.

The Presiding Officer—The Senate will take an informal recess for ten minutes.

AFTER RECESS.

TESTIMONY OF F. T. MOORE.

F. T. Moore, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Cochrane:

Question. Where do you reside?

Answer. Lansing.

Q. Where did you reside in 1871?

A. Lansing.

Q. What was your business in July, and for some months subsequent, in 1871?

A. Carriage painter.

Q. Did you also keep a boarding-house, connected with your business?

A. Yes, sir.

Q. Or Mrs. Moore?

A. Yes, sir.

Q. Did Mr. Van Dunham board with you?

A. He did.

Q. Do you recollect when he commenced?

A. He commenced the 15th day of June.

Q. Do you recollect at what time he ceased?

A. It was in October. The date I do not remember.

Q. About four months?

A. About four months.

Q. During that period, what proportion of the time was he absent?

A. I should think he was absent about one-third of the time.

Q. Do you know whether he was absent from town or not, during that time?

A. Well, he was, some of the time; how much, I am not certain, but considerable of the time he was absent from town.

Q. During those absences, that he was absent from your house, did you see him around town anywhere?

A. I did not.

Q. What was the conduct of Mr. Van Dunham, as to sobriety, while there at your house?

A. Well, I saw nothing in particular that would be against him—against his character,—no further than he made—

Q. I am speaking now with reference to the use of intoxicating liquors.

A. I do not think I ever saw him under the influence of liquor, at my house.

A. Did you, while he was away from your house?

A. No, sir.

Q. Do you know, while he was at your house, there was a disturbance there in which Mr. Van Dunham was engaged, on any occasion?

A. Any disturbance at my place?

Q. Yes, sir.

A. No, sir.

Q. I understood you to say there was.

A. Well, nothing in particular, he made casual remarks that was not very—

Q. I do not ask you about that. I want to know what his habits were in regard to drinking,—whether you knew anything about that while he was there; whether he was drunk. Do you know?

A. I do not know whether it was Mr. Van Dunham or one of the other boarders that showed appearances of intoxication, from the looks of his room in the morning. My wife—

Mr. McGowan—If the witness does not know this of his own knowledge, it is not fair to ask it.

Mr. Manager Cochrane—That is all.

CROSS-EXAMINATION OF F. T. MOORE.

By Mr. McGowan:

Question. How do you fix the time he was absent as being one third of the time? How do you determine that?

Answer. I judged from his being absent about one third of the time, at different times.

Q. How long would he be absent at any time?

A. Well, usually, about four or five days.

Q. You do not know, at those times, whether he was out of town or not?

A. Some of the time I knew he was out of town. From remarks I would hear him make I knew he had been out of town.

Q. You mean he was absent from your house one third of the time,—from his boarding-place?

A. Yes, sir.

Q. Do you include Sundays in that?

A. Yes, sir.

Q. You are not sure it was one-third of the time?

A. Well, I am pretty sure, as near as I can judge.

Q. Did you make any deductions from the board bill?

A. My wife kept account of the board. I do not know how that is. I have not ascertained.

Q. You only spoke of it from a general impression of his absence?

A. Yes, sir.

The Presiding Officer—The Senator from the Twenty-seventh (Senator Wheeler) sends up the following question: "What year did Van Dunham board with you?"

Witness—1871.

RE-EXAMINATION OF F. T. MOORE.

Re-examined by Mr. Manager Cochrane:

Question. I want to ask you what is the longest time you recollect of Van Dunham being absent?

Answer. He was gone, at one time, five days, I think.

Q. During that period?

A. Yes, sir.

Q. Were there frequent absences of three and four days?

A. Yes, sir.

Q. Have you any idea how many, or whether it was frequent?

A. Quite a number of different times,—he was away three or four different times.

Q. In the middle of the week?

A. Yes, sir.

RE-CROSS-EXAMINATION OF F. T. MOORE.

Examined by Mr. McGowan:

Question. Do you know where he was at these times?

Answer. I only know from what he said: that he came back from a trip away from here. Most every time, I myself asked him where he had been, and he said he had been on a little speculation.

Q. Was he gone three or four days?

A. Yes, sir.

Q. Where was he when he was gone the five days?

A. I think he was gone north, some place.

Q. One of those days Sunday?

A. I am not certain about that; I do not know; I think not. I think he went away in the forepart of the week, and came back the latter part of the week.

Q. When he was away three or four days at a time, would he not usually go Friday or Saturday, and come back the first of the next week?

A. I think not.

Q. Did he sometimes?

A. I am not certain about it.

Q. You have no recollection that he did at any time?

A. Yes, sir, I have one recollection of one particular time.

Q. That he went away the last of the week, and came back the first of the next week?

A. Yes, sir.

Q. Friday or Saturday, did he go?

A. I am not certain whether it was Thursday or Friday.

Q. Came back what day?

A. Monday.

RE-EXAMINATION OF F. T. MOORE.

Examined by Mr. Manager Cochrane:

Question. From any information which you gathered from him, or from any remarks that he made, did you obtain any idea, and if so, what, as to what these little speculations were?

Mr. McGowan—We hardly think that is fair. If there was anything said, you may give what was said.

Mr. Manager Cochrane—I asked him particularly if, from any information which he derived from him, he obtained any idea, what it was. Let us know what that idea was?

The Presiding Officer—The witness need not convey the idea; he can state what was said.

By Mr. Manager Cochrane:

Question. What was said as to the speculations?

Answer. I believe at one time, at the table, he told me that he had some land in the north part of the State, that he had been to see to.

Q. Did he state where?

A. No, sir.

Q. On these occasions that he went off Saturday and came back Monday, counting the three days perhaps, did he go off Saturday night and come back Monday morning, or Saturday morning and come back Monday night?

A. I am not certain what day it was he went away. It was either Friday or Saturday. He would most usually go away in the morning.

Mr. Manager Cochrane—I would like to inquire of counsel what the rule is. It has been drawn out that there is a rule of the office, that clerks may be absent thirty days in the year. That, I suppose, from your method of questioning him, does not include Sundays.

Mr. McGowan—Certainly not.

Mr. Manager Cochrane—Would it include the time of distant clerks going home every week?

Mr. Shipman—I understand that it does. It includes actual absence from the office.

Mr. Manager Cochrane—During week days,—no matter what the cause is?

Mr. Shipman—No matter what the cause is, as I understand it. I have not inquired sufficiently.

Mr. Manager Grosvenor—I desire to make a motion for an order.

The Presiding Officer—Let the Secretary read the order.

Mr. Manager Cochrane—I don't know whether he can read it.

The Presiding Officer—The gentleman may read it.

Mr. Manager Grosvenor read the order as follows:

Ordered, That the remaining proofs on the part of the Managers, in support of the 11th article, shall be taken before the Secretary of the Senate, in the presence of the Managers, and the respondent and his counsel, if they see fit to attend, on notice of time and place, and the proofs shall be reduced to writing and returned to the Senate and filed, and the same may be read in evidence on this trial, with the same force and effect as if the witnesses had testified in person before the Senate.

Mr. Manager Grosvenor—I make that motion to avoid placing with the evidence in this case, that which, perhaps, we can avoid doing,—the testimony in support of the Eleventh Article. If it is taken under the form of a deposition outside, it may be filed with the Secretary, and read, upon the hearing, with the same force and effect as though it was spread out in the book which we are making. It is for the purpose of avoiding having it placed there, that I make this motion; and I shall make a similar motion with regard to that paper already filed with the Secretary, called "Every Wednesday Night,"—to avoid that being spread out in detail upon our records,—that we may have the use of it before the Senate without having it republished in full, to be retained for all future time. There are many things connected with the testimony in support of the Eleventh Article,—that perhaps it is not necessary for the Senate to be informed what they are,—which need not be retained as evidence in the case. I make that motion, because, in the first place, we are not ready to proceed with our witnesses in support of the Eleventh Article. One of our witnesses [has] disappeared. We hope to secure her attendance

within a day or two; and we thought that it would be a saving of time to take this testimony outside,—out of the hours of the Senate,—and present it here to be read. It would save giving an unnecessary publicity to a matter which is not necessary. The public good does not require it.

Mr. Shipman—Mr. President: If it is proper that the Senate should pass upon the Eleventh Article, it is proper that they should hear the testimony. Furthermore, they are incompetent to pass upon it until they do hear the testimony. There are many witnesses, whose testimony should be heard by the persons who are to try the case, to enable them to determine what force and effect they should give it. We object to this motion. We have the right, in all cases of this kind, to have the witnesses produced before us, and produced before the men who are to decide as to the weight to be given to the evidence that they may choose to give.

We object to this motion, further, because it is an unheard-of proceeding. It would not give the Senate a fair understanding of the credibility of the witnesses. There have been witnesses upon the stand, whose presence was material, for the Senate to see what weight should be given to their testimony. When the testimony of witnesses is written down upon paper, it all reads alike. It reads very smoothly. The hesitation, the halting, the confusion of the witness is not photographed. His words, only, are presented; and whatever effect that language may have as it stands alone, the appearance of the witness may destroy or heighten that effect. There are a thousand and one things about the manner of a witness, which we all know tend to strengthen or weaken the testimony he is called upon to give. Therefore we object to this testimony being taken outside of the hearing of the Senate.

So far as this paper is concerned, we have considered it in evidence. I do not know that it was formally introduced; but we have considered it in evidence. Our impression of this matter was, that it was a matter which should be tried by the Senate. If I may be allowed the expression, we did not sup-

pose that we were going to engage in police business,—we did not suppose that this tribunal was established for that purpose; but we are forbidden by the respondent to raise the objection.

So far as publicity is concerned, we need only say, that it has been scattered through the country by the newspapers. The testimony has been published, and not the most favorable side of it at that. The Honorable Managers have stated here, and it has gone upon the record, what they intended to prove. The committee of the House have made their report, and that has been scattered broadcast. It has been spread upon the records of the House. I do not see how any additional publicity can be given to this matter, nor can I see that there is any reason at all that the witnesses should not be produced here. If they are necessarily absent, you can take their depositions, but if you can produce the witnesses, we have a right to have them here.

We furthermore object to taking the case until the Managers have got through with it. We ask them to give us all the testimony they propose to introduce in this case in support of the charges, fairly and squarely. They have done so thus far, and, after they get through, let us take the case; but we do not wish to take the case before that, nor do we wish to take it upon depositions.

Mr. Manager Grosvenor—I was not proposing to submit the case now, but that the testimony upon this article should be taken as I proposed. The details which would be given of particular facts tending to prove or disprove the charge, I suppose might be suppressed, and the suppression of those details is certainly within the control of the Senate; and it is not necessary that they should be spread out upon the record, to be printed and retained for all future time,—like this paper, which is already in evidence. The same rule will apply in regard to that. The gentleman would not insist upon that being detailed in the minutes that are taken by the reporters, who preserve every word that is said.

It is not, as the gentleman says, an extraordinary proceeding. We know that in all chancery proceedings, in matters of divorce, if you please, the testimony is taken before a commissioner, and is brought in and read to the court, or read to the jury, if the case is to be tried by a jury. And, in civil proceedings, it is not an uncommon thing to send out and take testimony, under the order of the court, under circumstances that seem to make it necessary. Our idea was, that this would avoid giving the details of all the testimony tending to prove or disprove the charge, that might be offensive if placed upon the records. The courts recognize that rule, when they say that you are not obliged to spread, in an indictment for libel, matters that are obscene and offensive to the public eye. The courts will not allow it to be spread upon the record. The court will judge of the propriety or impropriety of having placed upon the record, prominently, testimony, the details of which will be revolting.

The Managers have not published to the world the details of this testimony. There is a general declaration in the article, of what the offense is, and that has gone to the world, and nothing else. There is no testimony, bearing upon that, that has been given yet at all. There are the reporters of the different papers, who have given their own version of it.

Mr. Shipman—I do not intend to charge the Managers with doing anything wrong in the matter.

Mr. Manager Grosvenor—I presume not. I appreciate that, because the respondent would forbid it. In investigating this, there is a great deal of testimony, that I think quite unnecessary, and I think this Court will come to the conclusion it is quite unnecessary to spread it in detail upon the records.

Mr. Manager Huston—Would it not answer the purpose just as well, if the testimony was taken here and not reported by the stenographers,—not printed?

Mr. Shipman—Precisely; you may suppress it. I do not care what becomes of it. When the Senate gets the testimony, if they think best to suppress it, we will not object.

Mr. Manager Grosvenor—Anything to accomplish that purpose. It seems to me that it would be a saving of time if we could take that testimony out of business hours, and not interfere with the doings of the Court. However, I am not tenacious about it. I submit it to the consideration of the Senate. I ask for the order.

Mr. Shipman—May I call attention to just one thing? The Honorable Manager has mentioned the practice in chancery about taking testimony out of court. He must be aware that now it becomes a matter of right in chancery cases for a party to have witnesses examined in open court. We have no objection to the testimony being expunged finally, when the witnesses have been produced.

The Presiding Officer—The question is upon the granting of the order asked by the Honorable Manager.

The roll was called and the motion was denied, by yeas and nays, as follows:

YEAS.

Mr. Wilcox, 1

NAYS.

Mr. Alexander,	Mr. Moffatt,	Mr. Sheley,
Barber,	Morton,	Stockbridge,
Begole,	Neasmith,	Storrs,
Briggs,	Price,	Waterbury,
Cawley,	Prutzman,	Wheeler,
Dexter,	Putnam,	Wood,
Gay,	Randall,	President *pro tem.*,
Hannahs,	Romeyn,	
Mann,		24

Mr. Manager Grosvenor—We have no further witnesses now ready to introduce, and we would ask the indulgence of the Senate until two o'clock.

Mr. Wheeler—I move we take a recess until two o'clock.

Mr. Moffatt—Mr. President, I do not understand this arrangement.

The Presiding Officer—The motion is to take a recess until two o'clock.

Mr. Moffatt—For what reason?

The Presiding Officer—The Managers are not ready with witnesses just at this moment, and they wish to have a little time to arrange the balance of their proofs.

Mr. Moffatt—I would like to know how many more witnesses they have to offer?

The Presiding Officer—The Chair is not informed. Perhaps the Managers do not know.

Mr. Grosvenor—All the testimony in support of the Eleventh Article we have yet, and a very material witness has disappeared, as I said yesterday, and we hope to capture her; we have several persons on the look-out for her, and hope to obtain her and get her here in the afternoon. If we succeed in obtaining that witness, we shall then produce all the testimony bearing upon that; if not, we do not want to produce a part and leave that link out. I was unwilling, myself, to present any portion of it, without there was some certainty that we could procure that witness. If we should proceed with the testimony of three or four witnesses, and then fail in getting this witness, it would be a failure.

Mr. Moffatt—Does the Honorable Manager wish to suspend the proceedings until the witness is hunted up?

The Presiding Officer—Only until two o'clock.

Mr. Moffatt—I do not see why this matter should not be closed up now. It seems to me we ought not to lose time in this way.

The question being put, the motion to take a recess prevailed, and the President *pro tem.* declared the Senate adjourned until two o'clock P. M.

Lansing, Tuesday, P. M., May 14, 1872.

The Senate met and was called to order by the President *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

The Presiding Officer—The Gentlemen Managers upon the part of the House of Representatives will proceed with their evidence in support of the articles of Impeachment. Senators will please give their attention.

TESTIMONY OF BEN. B. BAKER.

Ben. B. Baker, a witness produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Cochrane:

Mr. Manager Cochrane—This testimony which we propose to introduce at present, is a small item, pertaining to the circulation through the postoffice of a paper known as "Every Wednesday Night," and is the only remaining evidence we have, pertaining to that paper.

By Mr. Manager Cochrane:

Question. Where were you engaged in the month of last April,—the first of it, I believe?

Answer. I was engaged by Richmond & Backus.

Q. Whereabouts.?

A. At the State House.

Q. Doing what?

A. Supplying the Legislature with stationery.

Q. Was the postoffice of the Legislature situated in the same room?

A. It was.

Q. Do you know anything about a paper being received, or copies of the paper being received, through that postoffice, the paper being called "Every Wednesday Night?"

A. Yes, sir.

Q. Did you see any such received?

A. Yes, sir.

Q. Have you any envelopes in which those papers arrived here?

A. Yes, sir.

Q. Will you produce them?

[The witness produces them.]

Q. Where do they appear to be mailed?

A. Toledo, Ohio.

Q. Did you see any of those papers taken out of those envelopes?

A. Yes, sir.

Q. You know what the paper referred to is,—you have seen it, have you?

A. Yes, sir.

Q. Are those all mailed at Toledo?

A. Yes, sir.

Q. Can you give a list of the persons to whom those papers were mailed? State, if you please, what time these arrived here,—about what time.

A. I think, on the twenty-first of April.

Q. Was the Legislature then in session?

A. It was.

Q. These are mostly, or all of them, mailed to members of the Legislature, are they?

A. These are all, with the exception of one mailed to Jones, the Clerk of the House.

Q. Was the Legislature in session at that time?

A. It was during the session of the Legislature. Whether the Legislature was actually in session at the time the mail arrived, I could not say.

Q. I mean during the period of the last session?

A. Yes, sir. I would like to correct the date. It was the twenty-first of March instead of April.

Q. Do you say you have the list of persons to whom the papers were mailed?

A. I have a list,—those that were received at this office—the Legislative office.

Q. Will you read the list?

[The witness read the list as follows:]

Senators Wilcox, White, Waterbury, Stockbridge, Emerson, Cravath, Begole; Representatives Hill, Williams, Swineford, Montgomery, Minne, Millington, P. Mitchell, Little, Hart, Hoyt, Holt, Knapp, J. Haynes, H. Haynes, Hurlbut, Gay, Fenton, Gorman, Clements, Cameron, Cochrane, Adam; Clerk Jones.

Q. Do you know in whose handwriting these indorsements on these envelopes are?

A. No, sir.

Q. They seem to be different handwritings?

A. I selected them on account of their being different.

Q. Is the handwriting the same, in your opinion?

A. My opinion is that it is not.

Mr. Manager Grosvenor—The paper filed here, indicated as "Every Wednesday Night," it is agreed may be considered in evidence, as I understand it.

The Presiding Officer—The Secretary may mark it as an exhibit.

Mr. Manager Cochrane—We propose to introduce, as soon as the witnesses arrive, testimony relating to the last article, so far as we are able to introduce it now. Under the circumstances, we shall have to ask permission of the Senate to introduce the testimony of a single witness,—Jane Bolton,—if we shall be able to produce her hereafter. The introduction of this testimony will operate as no surprise upon the counsel of the respondent, for they have before them what we suppose she will swear to. She was regularly subpœnæd, was here until after the trial of the case commenced, and ever since her absence we have been in hot pursuit of her with all the appli-

ances that could be obtained from the Court. And, under the circumstances, we shall ask the indulgence of this Court, so far as permission is concerned, to introduce her testimony. I may say here that cases of this kind not unfrequently happen in other courts, where witnesses cannot be produced in the regular order, and where the court is convinced that the parties requiring the evidence are acting in good faith,—where the right of producing them afterwards, with, of course, the right of cross-examining the witness, is frequently given to the parties who require such evidence.

We certainly, in this case, have acted in the utmost good faith, for the witness escaped without our knowledge, and we have had parties in search of her ever since her escape, which was sometime last Friday. We were put off the track; I know, for myself, I was. I would state that we received notice that she was going to leave town, and that she would be at Delhi, only five miles from here, and would return next day. So far as we have been able to discover, she was not going to Delhi and did not go there.

TESTIMONY OF H. T. CARPENTER.

H. T. Carpenter, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Huston:

Question. What is your business?

Answer. Banking business.

Q. Whom are you associated with in the banking business?

A. I am an employe only.

Q. In whose bank are you employed?

A. Cyrus Hewitt & Co.'s.

Q. What are your duties in that bank?

A. To attend to business generally.

Q. Are you acquainted with Charles A. Edmonds?

A. Not personally. I have seen him on the street and at the hotel.

Q. Do you know the "Company" of William A. Barnard & Co.?

A. I do not.

Q. Is there such a company as that doing business with that bank?

A. There is such an account there.

Q. Will you state the amount of that account, both debit and credit, of deposits of Wm. A. Barnard & Co.

A. I should think it would be about $50,000.

Q. Have you figured up so you can tell?

A. I have not.

Q. What amounts have been drawn out?

A. I cannot say; various sums.

Q. The sum total?

A. About the same as deposited.

Q. Have you got a minute of the larger amounts of deposit,—the amount of deposits above $2,000,—at different times?

A. Yes, sir.

The counsel here requested the witness to prepare a detailed statement of the deposits made by W. A. Barnard & Co., at Hewitt's Bank; and the witness retired from the stand for that purpose.

TESTIMONY OF CHARLES ANDERSON (COLORED).

Charles Anderson, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Huston:

Question. Where do you live?

Answer. I live here in Lansing.

Q. What is your business,—where are you working?

A. I am porter at the Lansing House,—working for Mr. Hudson.

Q. Are you acquainted with Mr. Edmonds?

A. Well, I am not particularly acquainted with Mr. Edmonds.

Q. Know him when you see him?

A. I think I do.

Q. How long have you been at the Lansing House?

A. It will be seven years the first day of next October.

Q. Did you ever see Mr. Edmonds at the Lansing House?

A. I think I have.

Q. Was Mr. Edmonds boarding at the Lansing House a year ago last spring?

A. Yes, sir.

Q. If at any time when he was there boarding you saw him with a strange woman—

A. [Interrupting.] No, sir.

Q. [Continuing.] Come out of a room? State what you know about it.

A. Yes, sir.

Q. State?

A. When I was agoing round the hall picking up my lamps, as I usually do every morning—I think it was room 97—I didn't see Mr. Edmonds come out of the room, but as I came round the hall, taking hold of the banister, I saw Mr. Edmonds pull the door to; whether he went in or came out I can't say. He went down stairs, and I passed on about my business, as I always do, and I went on down to several other rooms, gathered up the lamps, and rapped on the door as I do on all doors, for fear there was some one in, and coming back to room No. 97 I rapped on the door as I always do. A lady came to the door and I told her my errand. She handed me the lamp and I passed on.

Q. Did you see any one else?

A. Round the room?

Q. Yes, sir.

A. No, sir.

Q. Did you see Mrs. Hudson, in the hall, or her niece?

A. I can't say whether it was Mrs. Hudson or her niece; it is so long ago I have most forgotten whether it was Mrs. Hud-

son, or her niece, or the chambermaid. At any rate, it was one of these three. She said, "Did he come out of that room?" And I said, right back, "I didn't know whether he came out of that room, or not,—I can't say." She said "H'm! h'm!" and I passed on; I could not say any more.

Q. Mrs. Hudson, or her niece, or the chambermaid asked you, as I understand, whether he came out of that room that this woman was in. What did you say you told them?

A. I told them I didn't know whether he came out of that room, or not. I didn't see him come out of there. I told them Mr. Edmonds, when I came round the stairs, had hold of the door-knob, just as I was coming down stairs, and pulled the door to, after him; but whether he was coming out, or not, I can't say.

Q. What did they say?

A. They asked me if he came out of that room.

Q. What did they say?

A. When I told them I didn't know whether he came out of there, they said "H'm! h'm!" They didn't say "Yes."

Q. What transpired after that?

A. I don't know.

Q. Did he go down stairs?

A. The girl—I am pretty certain it was the chambermaid—she went down stairs, but whether she reported anything or not, I can't tell. I didn't hear her.

Q. What became of the woman that was in the room?

A. I left her in there.

Q. Do you know whether she was turned away from the house?

A. I cannot say whether she was or not, but she went away. In a few minutes after, I came down stairs, and saw her going away. I don't know whether she was turned away, or went away herself.

Q. Do you know where she lived?

A. No, sir.

Q. Or who she was?

A. No, sir.

Q. Was it Mrs. Edmonds?

A. I don't know that I have ever seen Mrs. Edmonds to know her.

Q. Did she go away alone?

A. Yes, sir, she did go away alone. She went off on the "buss,"—it was about "buss" time.

Q. Which way? To the Saginaw cars?

A. I can't tell. It has been so long, I cannot tell whether Saginaw or anywhere else. I cannot say,—I paid so little attention to it.

Q. Did you ever see that woman there before?

A. Not that I know of.

Q. Or since?

A. Not that I know of,—not to know of.

Q. Do you know whether Mr. Hudson or any one went up to her room after the time you saw her, to collect her bill?

A. No, sir, not that I know of.

Q. Do you know whether she went to the office to pay her bill?

A. I don't know whether she went to the office to pay her bill, or how. I don't know anything about it.

Q. Did she have any baggage there?

Q. Well, I declare, I forgot all about it. I don't know whether she had any baggage or not, it has been so long.

Q. Don't know whether any was carried down?

A. There was not any carried down that I know of.

Q. You usually attend to that part of the business, do you not?

A. Yes, sir.

CROSS-EXAMINATION OF CHARLES ANDERSON.

Cross-examined by Mr. McGowan:

Question. You say you paid but little attention to this?

Answer. Yes, sir.

Q. Was it an unusual occurrence about the house, or was it usual?

A. Well, I did not see anything unusual, as I know of,—did not seem to be any disturbance, nobody raising any rows; nothing of that kind,—everything seemed to be quiet.

Q. If the woman you saw in the hall was the chambermaid, what was her name?

A. Well, of course it was Jane Bolton. She was chambermaid then at that time.

Q. Then if it was the chambermaid, it was Jane Bolton?

A. Yes, sir; it must have been.

Q. Do you know how long that woman had been there that was in 97?

A. No, sir.

Q. Had you seen her previous to that?

A. No, sir.

Q. Know anything about her?

A. No, sir.

Q. Know when she came?

A. No, sir.

Q. Where was Mr. Edmonds' room at that time?

A. Well, I could not say; it has been so long, I forget all about it. I did not pay much attention to it. I had been away for a while, for four months, over to the Springs, and when I came back, Mr. Edmonds was at the house boarding?

Q. Which floor is No. 97 on?

A. On the third.

Q. Do you go up two flights of stairs?

A. Yes, sir.

Q. Is it in the hall running north and south, or the one running east and west?

A. Well, I don't know what you call it; it is the hall running so [pointing east and west].

Q. About how far was 97 from the corner of where that hall comes into the other hall running the other way?

A. I don't know, exactly.

Q. It was not next to the corner?

A. Yes, sir; the corner back that way; it was the second door, right-hand side, going the hall that way [west].

Q. Where were you when you saw Mr. Edmonds?

A. I was coming around the hall, and had hold of the banisters walking along.

Q. Hold of the banisters, walking around the hall?

A. Yes, sir; coming right around the banisters. The banisters, you know, come right around the stair-way.

Q. That circular stair-way?

A. No, sir; the side-stairs.

Q. Then when you saw him, you were in the same hall he was?

A. Exactly.

Q. How far were you from him?

A. I don't know. I was not a great ways; I could not say how far; I was not a great ways from him.

Q. Might you not have been mistaken about seeing his hand on the knob?

A. Why, I don't know. He pulled the door to, I think, if I am not mistaken; but whether he went into the room, or came out, I could not say. He was outside, in the hall, when I see him.

Q. Entirely outside of the room?

A. Yes, sir, clear outside. I think he had hold of the knob; anyway the door was shut to, right behind me. I could not say for certain that he had hold of the knob.

Q. When was that?

A. Oh, I could not tell you exactly, it has been so long.

Q. You said it was a year ago last spring, did you not?

A. A year ago this spring past.

Q. Do you know what time in the spring?

A. No, sir.

Q. Was it before the leaves came out on the trees?

A. Well, sir, I could not say; I paid so little attention to

such things. I was going on attending to my business. I don't know anything about it.

Q. Was it before the Fourth of July?

A. I don't know, sir, whether it was before or after.

Q. It may have been after the Fourth?

A. It may have been, but I forget all about it.

Q. What time of the day was it?

A. I think it was in the morning, of course.

Q. Why do you think it was in the morning?

A. Oh, I guess I know, when I gather up my lamps in the morning.

Q. That is in the morning?

A. Yes, sir.

Q. About what time in the morning do you think it was.

A. I could not say for certain what time it was.

Q. Eight or nine o'clock?

A. I could not be positive about it. I don't know exactly what time it was.

Q. Do you usually gather your lamps before breakfast or after?

A. After my breakfast.

Q. Don't you usually have your breakfast after the guests of the house have theirs?

A. No, sir.

Q. Before?

A. I have mine before.

Q. Before they commence?

A. Well, I don't know, sir; sometimes they commence before I do, and sometimes I before them.

Q. Well, it was after you had had your breakfast?

A. It was after my breakfast hour. I don't know. Sometimes I have breakfast at nine o'clock, and sometimes I don't have it until ten o'clock,—just as I can get my business around to get my breakfast. If my business is urging, so I can't get my breakfast before nine o'clock, it is nine o'clock before I get it.

Q. What I want to get at is, to have you fix the hour when it was you say you saw Mr. Edmonds?

A. It was in the morning.

Q. I want to get at as near the hour as possible?

A. Well, I don't know exactly. I want to tell the truth as near as I can; I don't want to put anything to it, nor take nothing from it.

Q. Do you think it was as late as eight o'clock?

A. I think it was near eight o'clock; something near that time; I could not say.

Q. When did you first tell of this?

A. I never said a word about it to nobody, before this gentleman over here asked me about it, because I didn't pay enough attention to such things. I never bother my head after such things. I never said nothing to nobody about it.

RE-EXAMINATION OF CHARLES ANDERSON.

Examined by Mr. Manager Huston:

Question. Was that Mr. Edmonds' room?

Answer. I could not say, sir, whether it was his room or not.

Q. You don't know, then?

A. I don't know, sir.

Q. Do you know how this woman came to make the inquiry —this lady that you met in the hall—do you know how she came to make the inquiry whether Mr. Edmonds came out of that room?

A. No, sir.

RE-CROSS-EXAMINATION OF CHARLES ANDERSON.

Examined by Mr. McGowan:

Question. Do you know where 75 is?

Answer. I think I do.

Q. Where is it?

A. It is on the same floor 97 is, only it is around in the other hall.

Q. Don't you remember that Mr. Edmonds occupied room 75?

A. Well, he did; yes, I know he occupied room 75 some time this spring; but whether he was in 75 last spring or not I couldn't say.

Q. If you were in 75, and were coming out into this hall, and down this way, you would have to pass the stair-way before you came to 97?

A. Yes, sir. You would have to go clear round the hall to do it, though.

Q. Have to go clear around the hall?

A. Yes, sir.

Q. Would there be any way of getting down stairs before you came to 97, coming from 75?

A. Yes, sir. There is a stair-way comes right down from Mr. Hudson's room.

Q. That is the straight stair-way?

A. Yes, sir.

Q. Then, if Edmonds was in 75, and came out of that hall into this long hall where 97 is, he would pass that straight stairway to get to 97?

A. He would pass it.

Q. After leaving 97, which stairs did he go down,—did you notice?

A. 97 was right at the edge of the stairs. He went right down the straight stairs. He was not near 75 at all.

MR. H. T. CARPENTER RECALLED.

Examined by Mr. Manager Grosvenor:

Question. Can you give us the amount of the deposits?

Answer. $59,559, or thereabouts.

Q. The amount of drafts that have been drawn upon that amount?

A. There were numerous drafts that I did not attempt to give, but can get them.

Q. The same total?

A. About the same as credit.

Q. Have you figured up the amount that has been drawn out?

A. Not accurately.

Q. So that you could not state actually about it?

A. I simply know that the account is very nearly balanced, and I judge that it has been drawn out.

Q. Will you give us the dates and amounts of those several deposits that you referred to when you were here before?

A. October 2, $2,591; November 22, $5,530; December 28, $4,359; January 17, $5,195; March 2, $2,550.

Q. How long since the account has been balanced,—you spoke about its being about even now?

A. I could not say, sir.

Q. As near as you can state?

A. I could not make any estimation. I did not pay any attention to it. We have a book-keeper. I simply know that it has not been overdrawn.

Q. Who draws the drafts upon the bank?

A. W. A. Barnard.

Q. Do you know whether it is in his handwriting usually?

A. I do not, sir—sometimes.

Q. Are they all in the same handwriting?

A. I could not say, sir.

Q. You do not remember about that?

A. I do not. I suppose they have been drawn by different parties.

Q. Who is his clerk?

A. Mr. Robinson.

Q. Do you think Robinson and Barnard have drawn all the drafts?

A. I think they have, sir.

Q. That is money,—not scrip?

A. It is money, sir. I know nothing about scrip.

Q. Who deposited that money,—who generally brings it to the bank?

A. Sometimes Mr. Robinson, and sometimes Barnard.

Q. Any one else?

A. No, sir; it has been sent down by the porter sometimes.

By Mr. Manager Cochrane:

Question. You do not keep those books?

Answer. No, sir.

Q. How do you know when there are overdrafts,—simply inspection?

A. The simple fact that the book-keeper advises us every night.

TESTIMONY OF M. R. TAYLOR.

M. R. Taylor, a witness produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Huston:

Question. Where do you reside?

Answer. In Lansing.

Q. How long have you been here?

A. About three years.

Q. Are you acquainted with Captain Edmonds?

A. Yes, sir.

Q. How long have you been acquainted with him?

A. One year; perhaps a little more; about a year, I should think.

Q. Have you ever been in the employ of Mr. Hudson, at the Lansing House?

A. Yes, sir.

Q. When were you there?

A. I was there for three years, or three years and a half, previous to the first of January last.

Q. You were there, then, last July?

A. Yes, sir.

Q. Do you know whether Captain Edmonds was boarding there last year?

A. I do, sir.

Q. Do you remember the occasion of a couple of women being there, that were said to be from Saginaw?

A. I remember a circumstance that took place, of two women being there, but where they were from I do not know, nor their names.

Q. Will you state the circumstance, and what you know about it?

A. Mr. Hudson, if I remember right, was absent,—not at home; and one afternoon, I think it was soon after dinner, I was called upon by Mrs. Hudson, and requested to put two ladies, in 128, out of the house, or have them leave, and I inquired to know what was the matter, and it appeared at that time that a chambermaid had reported some misconduct to her. And I did as she requested me,—had them leave.

Q. They were turned out on account of their misconduct?

A. Yes, sir.

Q. About what time was that, did you say, any way?

A. I could not remember, sir.

Q. About how long ago?

A. I cannot say, sir. It was sometime in the summer months, I should judge. It was a thing that I did not charge my mind with.

Q. What was the misconduct,—if you know?

A. It is all hearsay that I do know with regard to it.

Q. What was the alleged misconduct?

Mr. McGowan—We object to it.

Mr. Manager Huston—We propose to show the last transaction.

The Presiding Officer—Do you propose to have this witness state what Mrs. Hudson told him?

Mr. Manager Huston—Yes, sir, in order to fix the transaction, and then we propose to put Mrs. Hudson on the stand.

Mr. Shipman—Would not she be better evidence of the fact.

Mr Manager Huston—She will be here in a short time.

The Presiding Officer—The Chair will sustain the objection. I will take a vote if it is required.

By Mr. Manager Huston:

Question. Did you ever turn out two ladies at any other time?

Answer. I do not remember doing so.

Q. At the request of Mrs. Hudson?

A. No, sir; I do not remember doing so.

Q. That is the only time when you did anything of that kind?

A. I think so, sir.

TESTIMONY OF EDWARD A. WILDER.

Edward A. Wilder, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Cochrane.

Question. What was the total amount of the deposits in the bank, of the firm of Hewitt & Co., in favor of William A. Barnard & Co.?

Answer. The total deposits are $59,559.

Q. What is the total amount of charges against that?

A. $56,741.

Q, When did this account commence?

A. I could not say.

Q. Up to what time does it go?

A. Up to to-day.

TESTIMONY OF ELIZABETH HUDSON.

Elizabeth Hudson, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Huston:

Question. You are the wife of the proprietor of the Lansing House?

Answer. Yes, sir.

Q. Are you acquainted with Mr. Edmonds?

A. No; I am not.

Q. You know him when you see him?

A. Yes, sir.

Q. Do you remember the occasion when two ladies—two women—were turned away from your house, sometime last year?

A. Yes, sir, I do.

Q. They were turned away by Mr. Taylor, in the absence of your husband?

A. Yes, sir.

Q. Will you state when that was?

A. I do not know that I remember just the time.

Q. About how long ago?

A. I should think it must be four or five months.

Q. Will you state all of the facts, so far as you know them, in connection with their being turned away?

A. I was called up stairs by the girl. I did not see Mr. Edmonds at all. She told me she saw him come out of the room—

The Presiding Officer—You are simply to state what comes within your personal knowledge.

By Mr. Manager Huston:

Question. Go on and state what called your attention to them being there?

Answer. The girl called my attention to it.

Q. Go on and state what occurred after that?

A. After she called me there I went and sat down on the sofa, and she went up stairs, and after that I saw Mr. Clarke come down, and a lady come down the other way. I did not see Mr. Edmonds.

Q. Where were you when the girl called you?

A. Down in the pastry-room. I did not go up right away.

Q. Where did you go then?

A. I came up in the hall and sat down on a sofa.

Q. In which hall was the sofa?

A. In the front hall.

Q. Where did the girl go that you saw coming down stairs?

A. In 128.

Q. Was there another girl in 128?

A. Yes, sir; there was.

Q. What occurred after this one came down, and Mr. Clarke came down stairs?

A. I then rang the bell and called for Mr. Taylor, to order them out of the house.

Q. Was that done?

A. Yes, sir.

Q. What time of day was it?

A. That was about one o'clock.

Q. In the afternoon?

A. Yes, sir,—about dinner time.

Q. Do you remember the time that your son spoke to you with reference to Mr. Edmonds' room?

A. Yes, sir.

Q. Will you state what you know with regard to that. State in your own language what you know about that matter?

A. My son called me up to the room, and I went up and tended to it,—that was all.

Q. Whose room was it?

A. Mr. Edmonds.

Q. Who called your attention to it?

A. My son.

Q. What was there about the room that your attention was called to; anything in reference to the bed?

A. I guess I will not say anything about that.

The Presiding Officer—You must answer the question.

Answer. It did not look very neat. That is all I wish to say about that.

Question. What was the cause of the bed not looking very neat?

Mr. Shipman—You may ask leading questions on that.

Question. Was the cause of the bed's not looking very neat

as you term it, because there had been a lady in the bed,—a woman?

Answer. I cannot say as to that.

Q. Did it have, to your judgment, the appearance of being caused by that?

A. It looked something like that.

Q. Is that your judgment?

A. I should think it was.

Q. From a woman having what is termed her monthly periods, should you? You can answer that by yes, or no?

A. I should think so.

Q, Mr. Edmonds was boarding at your house at that time?

A. Yes, sir.

Q. Did the bed appear to have been occupied by two persons?

A. Really, I could not tell about that.

Q. Who was with you when you went to the room?

A. The chamber-girl went with me.

Q. What was her name?

A. Jane Bolton.

Q. Was this the same woman that notified you in regard to the two women that were turned away from the house?

A. Yes, sir.

Q. Was this before or after the two women were turned away?

A. I don't remember, now.

Q. Do you remember any women having been turned away upon any other occasion, excepting the time the two were turned away, since Mr. Edmonds has been boarding there?

A. I don't know anything about that.

Q. You did not have knowledge of the other transaction? When did Jane Bolton leave your house?

A. Friday.

Q. Do you know where she is now?

A. No, sir.

Q. Where did she say she was going, when she went away?

Q. She said she was going home to her mother's.

Q. To Delhi?

A. Yes, sir.

By Mr. Manager Grosvenor:

Question. Did she leave your employment permanently or temporarily?

Answer. She said she would be back this week Saturday.

Q. Not leave the service permanently?

A. No, sir; I did not understand it so.

By Mr. Manager Huston:

Question. These two women that were turned away from your house,—did you know them?

Answer. No, sir.

Q. Did you know where they came from?

A. Yes, sir.

Q. Do you know when they came to your house?

A. Yes, sir. They came there after ten o'clock.

Q. That same day?

A. Yes, sir.

Q. What did you judge them to be from their appearance? I wish you would state, in regard to them, what kind of women were they?

A. Not very good.

Q. If you formed any conclusion?

A. I didn't see anything done.

CROSS-EXAMINATION OF ELIZABETH HUDSON.

Examined by Mr. McGowan:

Question. When did this last occurrence—about the bed—occur?

Answer. I don't know that I can just remember the time.

Q. Give me somewhere near the time, so we can fix it. In the summer, or winter?

A. In the winter.

Q. Last winter?

A. Yes, sir.

Q. Could you say what the time was, with reference to New Year's Day,—whether before or after?

A. No, I could not.

Q. Was it before or after the holidays?

A. I don't recollect.

Q. Were you the first one that went to the room that morning, do you think?

A. I was called there by my son, or I would not have gone.

Q. Did you understand that your son had been there?

A. No, sir; I don't think he had. He told me he wanted me to go up into the room.

Q. Did you understand any one had been there before you?

A. No, sir, I did not.

Q. When you came to the room did you find that the sheets, or any part of the bed-clothes had been removed?

A. No, sir, I think not.

Q. Did not the lower sheet look as if it had been removed from the bed?

A. No, sir, I don't think it had.

Q. It was bloody, was it?

A. Yes, sir.

Q. You do not give it as anything more than your opinion about how it came to be so?

A. No, sir.

Q. You would not be positive that it was from the cause you have spoken of?

A. No, sir.

Q. Now, about how large a place in the bed, or clothing, was discolored?

A. I don't know as I could really tell that.

Q. Can you give us some idea from this sheet of paper? Was it as large as this sheet of paper I have in my hand? [Showing witness a paper.]

A. I didn't notice much, for I just took the clothes right off. I did not pay much attention.

Q. Was there anything soiled but the sheet?

A. No, sir.

Q. Was any sheet soiled but the under one?

A. I didn't notice but the one.

Q. You say you didn't see the two girls that were sent from the house do anything wrong?

A. No, sir, I did not.

Q. Had you seen them previous to your going up into the hall? Had you seen them about the house?

A. No, sir; I never saw them before I saw them when I had Taylor order them out of the house. I saw them going out.

Q. You say when Clarke come down, you saw one of the girls come down?

A. She came down the other stairs.

Q. Mr. Clarke came down the winding stairs?

A. Yes, sir.

Q. She came down the straight stairs?

A. Yes, sir.

Q. She went into No. 128?

A. Yes, sir.

Q. Do you know that the other girl was in there when she went in?

A. Yes, sir; I saw them both come out after that; I sat on the sofa until they both came out.

Q. Can you give us some idea how long that was after the bed was soiled, or was it before the bed was soiled? How far apart were these two occurrences?

A. I cannot remember.

Q. They were some distance apart, in time?

A. I don't remember; I paid so little attention to it. I don't remember what time.

Q. Do you remember that this occurrence about the girls being sent away was after the bed had been soiled?

A. I cannot tell that.

Q. Let me refresh your recollection. Was it in the summer time the girls were sent away,—wasn't it warm weather?

A. No, sir; I think not.

Q. Was it in the winter time?

A. I think so.

Q. Both occurrences in the winter time?

A. Yes, sir.

Q. Would you think there was a week or two intervening?

A. I should think there was, but I could not tell for certain I don't recollect the time.

Q. What time in the day was it you saw the girl and Clarke?

A. About one o'clock.

Q. After your dinner hour?

A. Yes, sir; about dinner-time.

Q. Do you recollect whether you had taken dinner or not?

A. No, sir: I had not,—I was called up before I ate anything.

Q. Had any part of the guests of the house been at dinner that day?

A. They were eating then.

Q. All you know of the character of those girls is what you heard?

A. Yes, sir.

RE-EXAMINATION OF ELIZABETH HUDSON.

Re-examined by Mr. Manager Huston:

Question. I want to read you a little of your testimony before the investigating committee, and have you say how it is. You say, "I found the bed looking bad; it was filthy and bad; bloody and dirty; and I called the girl, and she scrubbed the mattress." Was the mattress also soiled?

Answer. Yes, sir.

Q. So it was necessary to have that cleaned?

A. Yes, sir.

RE-CROSS-EXAMINATION OF ELIZABETH HUDSON.

Examined by Mr. McGowan:

Question. Was there any covering on the bed, between the sheet and the mattress?

Answer. No, sir, there was none.

Q. Did you have occasion to notice the mattress, and how much space was covered by this discoloration?

A. I do not know as I could tell exactly.

Q. You did not notice it?

A. No, sir; I did not.

The Presiding Officer—The Senator from the Twenty-ninth sends up the following question:

"Could you not judge of the character of these girls, also, from their appearance?"

Answer. I did not see them, only for a few moments—only when they came out of this room; but I do not think they were very good girls.

By the Presiding Officer:

Question. You judged that from their appearance?

Answer. Yes, sir.

By Mr. McGowan:

Question. You say you did judge that from their appearance?

A. Yes, sir.

Q. What was there in their appearance that made you judge they were bad girls,—was it in their dress?

A. No, sir.

Q. Was it in their actions?

A. Why, yes, it was.

Q. What did they do?

A. Well, they acted kind of as though they did not care.

Q. Give us the last part of your answer again.

A. I said that they acted kind of rude,—as though they were not good girls.

Q. Bold?

A. Yes, sir.

The Presiding Officer—I am requested to suggest, whether it would not be proper to have the testimony of the last witness excluded from the printed proceedings. If a motion is made to that effect, the Chair will entertain it.

Mr. Manager Huston—Mr. President: I believe that concludes our testimony, with the exception of the witness Jane Bolton; and if we can have the privilege of having her sworn, should we succeed in producing her attendance before the proceedings are closed, we will now rest the case. If that cannot be done, we would prefer to have the case adjourned until to-morrow morning. But it seems to me there will not be any objection to proceeding. We have sent an officer after the witness and we expect to procure her attendance.

The Presiding Officer—So far as the Chair is concerned, I will grant the privilege, unless the Senate shall otherwise order.

Mr. Manager Huston—We do not think of anything at present that we desire to present. It may be possible, however, that something has been inadvertently omitted.

Mr. Shipman—We are convinced that so far as the Managers are concerned they have acted in all good faith in the matter, and would have had the witness here if they could have done so, and we desire to accommodate them in every way in our power; only we ask this favor in return,—if it should happen that we are delayed in presenting our witnesses, that we may be granted a little time.

The Presiding Officer—I have no doubt but that the Senate will grant a like favor to the counsel.

Mr. Manager Huston—Then with that understanding we "rest."

Mr. Manager Cochrane—Perhaps it might be well enough to reduce it to a motion, and I have reduced it to writing for that purpose.

Mr. Shipman—I understand it is only this one witness, Jane Bolton, that you desire.

Mr. Manager Cochrane—We confine it to this one witness.

Mr. Cochrane read his motion, as follows:

Ordered, That Jane Bolton may be sworn in this case, on the part of the State, at any time before the evidence is closed;

and her testimony received as if given in regular order; subject to the right of cross-examination on the part of the respondent, and to produce testimony in answer thereto.

Senator Romeyn—Mr. President, I move that the proposition made by the Manager be entered upon the records as an order of the Court.

The motion prevailed.

Senator Morton—Was there a motion made that the testimony of Mrs. Hudson be excluded from the published proceedings?

The Presiding Officer—There was simply a suggestion made by the Chair.

Senator Morton—How does the matter now stand?

The Presiding Officer—The testimony will be printed, unless otherwise ordered.

Senator Morton—Would it be retained if not published?

The Presiding Officer—The reporters would copy it off into longhand.

Senator Morton—I move that it be withheld from the proceedings.

Mr. Shipman—We prefer that it should be as it is. We will endeavor to wash that sheet as white as snow before we get through. We are not afraid of it, and do not see why it should be expunged.

Mr. McGowan—I think that everything that Mrs. Hudson has said before the court to-day was said before the committee on the examination. That testimony was read before the Lower House in the presence of the reporters; was taken up by them and sent all over the country. Everybody knows the story of that bloody sheet. They have read it. They have talked it over. They have prejudged the case with regard to it. We desire that the statement which she has made should go upon these records as she has made it, and that the defense, which we feel quite able to make, with regard to it, may go along with it, that the people may read both stories. I think it is due to the respondent that it should

be published. There has nothing been said so very indelicate, here; nothing that anybody—unless they are very squeamish—could not read with propriety; and it seems to me that it is nothing more than just to this respondent, that the whole of this thing should go upon the record, and let everybody have a chance to see what there is of the bloody sheet.

The roll was called, and the motion to expunge did not prevail, by yeas and nays, as follows:

YEAS.

Mr. Morton,	Price,	Sheley,	3

NAYS.

Mr. Alexander,	Mr. Mann,	Mr. Storrs,	
Ball,	Moffatt,	Waterbury,	
Barber,	Neasmith,	Wheeler,	
Begole,	Prutzman,	Wilcox,	
Briggs,	Putnam,	Wood,	
Cawley,	Randall,	President *pro tem.*,	
Dexter,	Romeyn,		23
Gay,	Stockbridge,		
Hannahs,			

Mr. McGowan said:

Mr. President, There is a wilderness of testimony to go through in order that we may present to the Court a statement of our defense in consecutive order and in a brief time. It is now almost the hour of adjournment. We have been very busy taking care of the cross-examination and looking after the case as it has come along, and we would ask the indulgence of the Court until the usual hour of assembling to-morrow morning, before we open the case, promising that we shall be sufficiently brief at that time to pay for any delay that has been caused this afternoon. We shall occupy but a very short time in opening the case, if we can have this evening to put matters in order, as we shall have nothing but our memory to rely upon, if we attempt it now.

Senator Romeyn—I move the Senate do now adjourn until to-morrow morning at nine o'clock.

The motion prevailed.

The Presiding Officer—The Senate, sitting as a Court of Impeachment, stands adjourned until to-morrow morning at nine o'clock.

Lansing, Wednesday, May 15, 1872.

The Senate met, and was called to order by the President *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

Absent without leave—Senator Jenks.

Mr. Manager Cochrane—There was one thing that perhaps ought to be stated now. I do not know but the oath of office would be sufficient proof of the official character of the respondent. I suppose that perhaps the counsel will have no objections to admit that he is a civil officer under the Constitution, and one that may be liable to impeachment for proper cause.

Mr. McGowan—We admit that he is Commissioner of the Land Office of the State of Michigan.

Mr. Manager Cochrane—Duly qualified.

Mr. McGowan—Duly elected and qualified.

Mr. McGowan—Mr. President: We find that the few hours of preparation we have been able to give to the opening of this case, have been quite too short for any careful investigation of the testimony, to put it in such a shape as we desired it should have been, for presentation to the Senate. And yet we have done the best we could.

After dragging through this wilderness of testimony for these ten or twelve days, we have, at last, come to an open space, where we may have the privilege of a breathing spell, and of looking about us, to take our bearings.

The respondent is, at last, to be heard in his own defense.

This is the first opportunity which he has had; and now, in opening the case, on behalf of the respondent, before the Senate, we should first ask a few minutes attention to the inherent difficulties of the case itself.

At the suggestion of my brother, Mr. Shipman, I want to make this proposition to the Senate, before I proceed with the opening of this case:

Governor Baldwin is here, and we desire to use him as a witness on behalf of the respondent. His duties are such that he wishes to leave on the next train, at ten o'clock. We propose to examine him only in regard to a single point; and would ask the privilege of examining him, even before we open the case to the Senate.

The Presiding Officer—The counsel for the respondent can have that privilege, unless it is objected to.

TESTIMONY OF GOVERNOR HENRY P. BALDWIN.

Henry P. Baldwin, a witness produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. McGowan:

Question. You are the Governor of the State of Michigan?

Answer. I am, sir.

Q. Do you know Charles A. Edmonds, Commissioner of the Land Office?

A. I do, sir.

Q. State whether at any time you had a talk with him concerning the work in his office, and the necessity for further help?

A. Early at the commencement of the official term of Mr. Edmonds, I called his attention to the fact, that the patents of lands that had been received from the General Government from time to time, and that the lists of railroad lands furnished by the Commissioner of the Land Office at Washington had never been bound,—that they had been kept in the shape in which they were originally received. No lists

had been made of them. There were no proofs containing the lists of patents or descriptions of lands patented, or description of lists of the railroad lands furnished by the General Government. I had had occasion, frequently, to refer to them, and I had always found them in drawers, in a loose shape, without any record of them whatever, and I stated to him that it seemed to me they should be bound up, and books opened, in which they would be regularly described, containing lists of all the lands that had been received, both by patents and lists. Some of the lands are patented, and lists of others are simply furnished. The Captain, in reply, stated that the number of clerks in his office was hardly sufficient; that he found a good many such things in the office, and it would require a larger force. I stated that I considered the matter of much importance to the people of the State, from the fact that patents were liable to be mislaid. I called his attention to the fact that one list of the lands, which I had been called upon to release to the General Government, I found missing, two or three months before the commencement of his term; and I was very anxious they should be bound up, and a general list made of them. The Captain stated that it would require some additional force in his office. I stated, if that was the fact, it seemed to me to be of sufficient importance to the people of the State, and the general interest of the State, that if it was necessary for him to employ additional force, he must do so, so as to have the work done. I believe that is the substance of the conversation.

Q. Do you know whether he did employ additional force?

A. My remembrance is that he subsequently told me he had done so.

Q. Do you know whether these lists that you speak of, which you suggested that he should make,—is what he now calls his abstract-books?

A. I suppose it is. I do not know what he may call the title of the book. I have had occasion since then to make some inquiries with regard to these several classes of lands, and the Cap-

tain has shown me the books in which he was having it done. As to title of them, I do not know.

Q. Then you know this work is being done?

A. I know the work is being done.

Q. You have been a member of the State Board with the Land Commissioner, have you not, during his term?

A. I believe all of them except the Board of Auditors.

Q. How frequently have you met with Commissioner Edmonds?

A. The State Boards meet on the last Wednesday of each month, I believe. I have been present at all the meetings with the exception of a single one last summer, when I was out of the State, and I think Captain Edmonds has been present at certainly most of them, and perhaps all of them.

Q. Have you had occasion, aside from meeting the Commissioner on these Boards, to examine into or know with regard to the conduct and management of his office, to some extent?

A. Not specially. I know very little of the details. I know a little of it, and not very much either. Occasionally, from time to time, my attention has been called by letter, from people in different portions of the State, to some matters connected with the office, and upon such occasions, I have gone to the office to make inquiries of the Commissioner, and he has on such occasions usually taken me to the proper book, and made such explanations as at that time seemed to be satisfactory.

Q. From the examination which you have made in this way, and from your general observation of the office, what would you say as to the general conduct and management of the office since Mr. Edmonds has been Commissioner of the Land Office?

Mr. Manager Cochrane—We object. Although, of course, we recognize, in the Governor, the high official of the State, yet it does not appear here, he is able to judge of the way this

work is conducted,—whether it is conducted entirely for the benefit of the people of the State.

Those who deal in the office—those who deal with lands—might, perhaps, be competent; but I submit that the opinion of the Governor is hardly conpetent, in the way that they propose to introduce it here. He has been there, but says he does not know much about it,—been there to make inquiries with regard to business, which was brought to his attention,—but. they ask him, now, the general question, what is his opinion about the method of business of that office.

The Presiding Officer—The ground of the objection is, that there is not sufficient foundation made, for asking his opinion

Mr. Manager Cochrane—Certainly. He does not appear to be an expert. Of course the Governor's opinion, whether he is an expert or not, may, perhaps, have some effect, both here and elsewhere. But we would like to have the testimony of the Governor confined by the legal rules.

Mr. McGowan—Mr. President, the Senate have already heard what Governor Baldwin has said, with regard to his observation of the workings of the office, and of his meeting with the Commissioner upon the State Boards. Of course, it is well known, that these Boards have more or less to do with all of the State offices, and particularly with the Land Office. I only ask for the fact, as he derived it from his observation of the general conduct and management of the office. He has already stated that he did not understand the detail, only so far as his examination went in these special cases. It seems to me, that the evidence already shows that he had a general knowledge of the conduct of the Office. The objection, at all events, only goes to the weight of the evidence, and the Senate may judge of that from what has already been stated, as to his familiarity.

Mr. Manager Grosvenor—Mr. President, it goes a little farther; it opens the door as to this question, whether the general reputation of that office is a matter about which we

can inquire. No charges of that kind have been made here, and there has been no attempt to make proof upon that. We have given proof of particular acts,—what we claim to be corrupt conduct in office; will a question of opinion of any one, two, or three or more men, detract any from that? The opinion of His Excellency here would be of some weight if that was the question which we were to inquire into.

Supposing it was true that the general reputation of the State officers in regard to that office was, that it was well conducted, then we could introduce witnesses to show that in the general opinion of the people it was not well conducted. Is that a matter of inquiry under the issue before the Senate? In other words, can you show general reputation to overcome the preponderance of proof of specific facts proven and charged in a case? If this door is opened, if this subject is to be inquired into, of course on the reply, or rebutting testimony, we may call all who have been disaffected, who have had occasion to do business particularly, and are dissatisfied with the workings of the office. Now, whether the office has been as well conducted under this administration as any other is not the question here,—is not here nor there,—it has no bearing upon the case. It seems to me, it is a question here of opinion of one who is well capable of judging so far as his knowledge goes. The presumption is, that had His Excellency had knowledge of corrupt conduct in office he would have exercised that wholesome discretion fixed by the Constitution, and have made inquiry into it before. That he has not done so, the presumption is as strong in favor of the Commissioner as the proof of His Excellency can be here.

The Presiding Officer—The Chair will overrule the objection. Shall I take a vote of the Senate?

A Senator—I call for a vote of the Senate.

Mr. Shipman—Mr. President: I do not think that the question has the scope that the Honorable Manager seems to think.

The real intent of the question was, to get at the knowledge of the Governor of the personal management and ability, and competency of the Commissioner,—not the general reputation of the office. Possibly the question may have been broader than we intended; we did not intend to inquire as to the reputation, in any degree or way.

The Presiding Officer—The Chair would simply state, that the opinion of the Chair was based somewhat upon the official position, and standing, and relation of the witness to the respondent and the office. The Chair might rule differently, were the witness of a different character.

Mr. Manager Cochrane—Do we understand the Chair, that if we undertake to put on witnesses hereafter, to rebut any testimony that may be given by the Governor, if we shall see fit, that, even though they are unofficial, we shall be debarred from showing it?

The Presiding Officer—The Chair will not state in advance what the position will be here.

Mr. Manager Cochrane—We understood the Chair to be stating a principle here; that it was admitted because he was an official, and the argument might be that it would be rejected because he was not an official.

The Presiding Officer—The Chair was not stating a principle, but the reason of the decision of the Chair.

The Secretary read the question, as follows:

"From the examination which you have made in this way, and from your general observation of the office, what would you say as to the general conduct and management of the office since Mr. Edmonds has been Land Commissioner?"

Mr. Shipman—Permit us to shape the question a little differently, and we think we can obviate the objection. We will withdraw that question, and ask another, and we will state the question in this way:

Question. From your personal and official observation, will you state what has been Mr. Edmonds' conduct and management of the office?

Mr. Manager Cochrane—We make the same objection to that. It is only stating the same question in other words.

The Presiding Officer—The question just read by the counsel is the question proposed to be put to the witness. The question before the Senate is, "Shall the question be put?" The Secretary will call the roll.

The roll was called, and the objection sustained, by yeas and nays, as follows:

YEAS.

Mr. Alexander.	Mr. Cawley,	Mr. Randall,
Ball,	Hannahs,	Wood,
Barber,	Morton,	President
Begole,	Price,	*pro tem.*,
Briggs,	Prutzman,	13

NAYS.

Mr. Dexter,	Mr. Putnam,	Mr. Storrs,
Gay,	Romeyn,	Waterbury,
Mann,	Sheley,	Wheeler,
Moffatt,	Stockbridge,	Wilcox,
Neasmith,	Stoddard,	14

The Presiding Officer—The yeas being 13, and the nays 14, the question will not be asked the witness.

Question. State whether you have any knowledge of the habits of Commissioner Edmonds, of temperance or intemperance?

Answer. I have no knowlege whatever except from his general appearance, when I have met him officially.

Q. Did you ever observe, at any time you have met him, that he was under the influence of intoxicating drinks?

A. I have not.

Q. Was he in any other condition than the proper one for the transaction of business?

A. I don't remember of ever having met him, when I had occasion to suppose he was not in a condition to transact business.

CROSS-EXAMINATION OF GOVERNOR HENRY P. BALDWIN.

Cross-examined by Mr. Manager Cochrane:

Question. These lists that you have referred to,—are they the lists received from the United States?

Answer. Yes, sir; from the United States.

Q. When you advised him to have them put in order, was that advice to have what has been called abstracts bound together?

A. I stated to him I thought they should be bound together, and that an abstract should be made to each, so that they could easily be referred to.

Q. These lists are official documents of the United States?

A. Yes, sir.

Q. Evidence of the title of the State?

A. Yes, sir.

Q. The abstract that you advised him to get up, then, is a mere brief statement of what is contained in those lists?

A. I so understand it.

Q. A copy?

A. No, sir; my advice was they should be bound up separately and an abstract made, so they could be readily referred to in case of loss. I don't know that I mentioned in case of loss; but my idea was, in case of loss we could refer to Washington and have them refurnished.

Q. They could not be evidence without the law?

A. No, sir.

Q. You have examined those United States lists?

A. I cannot say that I have examined every one, although I have looked them over and examined some of them.

Q. Have you a knowledge of the general amount of labor bestowed upon them to get them up?

A. I have no specific idea of the amount; yet I think it would be attended, however, by a considerable labor,—no great amount of labor,—but more or less labor to make those abstracts.

Q. Would that require four or five clerks over a year, in your opinion?

A. Really, I have no—if you want an opinion, simply, I can give it, although it would be simply an opinion.

Q. I suppose so; but knowing something about the lists, every man can judge how much work would be required.

A. I would not suppose that the particular duties to which I alluded would take that number of clerks.

Q. For that length of time?

A. I would not suppose that that particular duty would take that number of clerks that length of time.

Q. When you are out here on business, you generally come at stated periods?

A. I am here at stated periods, and at other times.

Q. But, as a general thing, at stated periods?

A. Yes, sir.

Q. So that Mr. Edmonds has knowledge at what time he is to meet you?

A. Yes, sir.

RE-EXAMINATION OF GOVERNOR HENRY P. BALDWIN.

Examined by Mr. McGowan:

Question. Can you state how many acres of land there was requiring that abstract?

Answer. I could not, but it must be a good many millions.

Q. Would it not have to be put on the books in small parcels and subdivisions?

A. If careful abstracts were made of each description, I suppose some of them would require more labor than others. Some of the conveyances from the government are in large and some in small quantities.

Q. Upon an examination of the books, did you observe any such information as you suggested to Mr. Edmonds ought to be there.

A. I have not examined the books recently, but I should say from the manner in which the work was being done, it seemed to me it would be satisfactory when completed.

RE-CROSS-EXAMINATION OF GOVERNOR HENRY P. BALDWIN.

Examined by Mr. Manager Grosvenor:

Question. Would this labor cover anything more than the swamp and agricultural lands, so called?

Answer. Yes, sir. My request, if I remember right, included, also, the lists furnished by the General Government,—by the Commissioner of the General Land Office,—of lands for railroads. You are aware that a large proportion of land granted to the State, by the Government, has been in aid of railroads; and of those, instead of being patented, lists only are furnished; and those lists were kept in the same loose manner, and I requested Capt. Edmonds to have these lists also bound, and an abstract made, the same as the others.

By Mr. Manager Huston:

Question. Were the primary school lands included?

Answer. All the lands of the State.

Mr. Manager Huston—That is all.

The Presiding Officer—The counsel for the respondent will now proceed with his argument.

Mr. McGowan—When interrupted, I was stating some of the causes we had had to contend with in this case, and I was about to call the attention of the Senate to the fact that we were dealing with the Commissioner of the State Land Office, an office which is probably the most difficult to fill properly of any within the gift of the people of this State; and that from the very necessity of the case, from the peculiar nature of the duties to be performed by the Commissioner, that necessarily complaints would arise. Charges of malfeasance, misfeasance, and corrupt conduct in office have always been made since the establishment of this office, against the office, and against the officer. That is not only true of Michigan, but it is true of every State in the Union that is blest, or cursed, with a Land Office. Such complaints come from Illinois, Wisconsin, and Nebraska, and from every United States Land Office in the whole country. Every Governor of every State that has a

Land Office in it, is always annoyed with these complaints, and when we come to consider the duties which devolve upon the Commissioner of the Land Office, we cease to wonder that there should be such complaints. When we come to remember the multiplicity of things he has to do; the class of men with whom he has to deal; the kind of work that has to be done in his office, I say, we cease to wonder that there are complaints, and that there are charges of this kind.

In Michigan, the Commissioner of the Land Office has sole charge of all public lands, including the primary school lands, the Agricultural College lands, asset lands, public building lands, and half a dozen other divisions, including this great grant from the United States of swamp land.

As early as 1845, I think it was, (long before there was any grant of swamp land to Michigan, to make this confusion worse confounded), the Legislature thought best to have a board for the settlement of difficulties and contested claims which arose on the sale of lands owned by the State at that time,—other lands than swamp lands,—and a special board was organized under the law passed, having the power to examine witnesses, and sitting as a sort of court to decide claims which arose,—the difficulties were so great at that time.

During the first ten months of the administration of the present Commissioner, he patented upon road contracts out of the swamp land grant 350,000 acres alone. He is selling, and has been selling, on the average, every day since he has been Commissioner. 1,000 acres of land. In his dealings in these swamp-land matters, he has to deal with hundreds and hundreds of contractors, sub-contractors, and assignees of contractors in these roads, ditches, and public improvements; and in the wake of this army of contractors and assignees of contractors follow a horde of bummers, worse by an hundred-fold than those that followed the army of Sherman from Atlanta to the sea. These land-sharks and speculators have been ready not only to prey upon the contractors and homesteaders, but, when out of any other employment, to prey upon,

in addition, the ditch-diggers and railroad builders. He has also had to deal with homesteaders. Now, sir, it is no wonder, in all this clashing and overlapping of interests, that there should be some complaints,—that there should be loud complaints. These sharp-eyed, keen fellows swarm the northern counties, with a plat in one hand and a pencil in the other, noting down the value of every forty acres of land, as to its timber, its soil, and its value in the market. Is it a wonder, then, that these men, all of whose interests center in the Land Office, should make some complaint, and that there should be some confusion? These are some of the difficulties which surround this case, to which I ask the attention of this Honorable Court before we proceed with the defense.

From the first inception of this case,—from the time of the presentation to the Lower House of the Legislature of the petition asking for an investigation of the official conduct—or, rather, the personal conduct—of this Commissioner, to this moment, his mouth has been sealed. Not a word could he say in his own defense. An investigation was made,—an *ex parte* investigation was taken before the committee; testimony was taken upon the high-pressure system. It was caught up and scattered all over the country in the newspaper reports; and to a certain extent by the people and press his case has been prejudged.

We do not believe that it has been prejudged by the Senate, but we know very well that every man who sits here and hears the case is nothing more than human. We know very well the force which first impressions make upon the mind. We feel that this is a difficulty under which we have to labor; and, before we state our defense on the part of the respondent, we desire to ask this Court to withhold judgment. We want to ask them, so far as possible, to banish from their minds all first impressions that this case has made, on the part of the People. We ask only to be heard, and you will bear me witness when I say, that at no time has the respondent shrunk from a thorough investigation of his case.

When offered an opportunity, before the committee, to say a word, he asked for an investigation. He courted it then,—he courts it still. I think you will bear me witness, also, that in the progress of this case, as it has been on trial before you, for the past fortnight, that there has been no attempt to keep from the Senate anything which bore upon the issue joined, or which would allow the Senators a thorough knowledge of all the conduct of this official.

We cannot believe, Mr. President, that this Court is, in any sense, a town meeting with its rabble and noise, and want of thoughtful action, but on the contrary we feel that it is a high and dignified Court,—the highest Court in the State, organized out of the highest branch of the Legislature, provided for in the very Constitution itself,—sitting only upon rare occasions, and upon causes of gravity and concern to the State. We cannot feel that any partisan feeling comes within this Court. We realize that here all party lines must vanish from sight; all party differences must be forgotten. We believe that no clamor from the outside, that no demand from constituents, shall come in and crowd Senators to hasty or unjust conclusions. We rest perfectly confident in the belief that this Court will be led only by the voice of duty in the investigation of this matter, and, with that view of the case, we come before you cheerfully to present our defense.

Before we state specifically the facts that we wish to rely upon in defense of specific things which they have attempted to prove, we shall ask to make a statement of what we shall prove as to the general history of the Commissioner, from the time he assumed the duties of his office.

As the matter of his nomination has been referred to, we wish to state that at that time he made no bargains, as we shall prove; that he entered into no contracts with any individuals, or any set of individuals, as to what he should do if he was elected Commissioner; that his nomination was a perfect surprise to himself; that but a very few minutes before his name was sprung upon the Convention, he had not the most distant

thought that he should ever be proposed as the nominee for Commissioner of the Land Office of the State of Michigan; that he had no talk whatever, either with his friends, or with opposing candidates, or friends of opposing candidates, until they were counting the last ballot, which declared him the nominee of that Republican Convention.

While they were so counting the last ballot, some of the friends of the then Deputy in the Land Office came to him and mentioned the fact of Porter's wish to be retained as Deputy and he simply said to him, in the bustle and hurry of the occasion, that if elected to the office he should be new in the duties that would devolve upon him; that it would be necessary for him to have some experienced help, and that so far as he then knew, he would need the help of the then Deputy; and that alone was all the bargain which he made previous to going into the Land Office. We shall show that the Deputy did not himself understand, at that time, that he had made any contract with the Commissioner to be Deputy; but on the contrary, that he was very anxious about his appointment up to the very time that the Commissioner came here to take his place and assume his official duties. That he talked about it; that he understood that some other man would be appointed as Deputy, and wrote about it to friends of Mr. Edmonds, asking them to intercede in his behalf.

On the first of January, 1871, Mr. Edmonds came here to assume his duties. Of course, those duties were entirely new to him. From what we have been able to learn during the progress of this trial, I think that no member of this Court will expect that he, or any other person, should have ascertained what his duties were in a brief space of time in that Commissioner's office, with all that was there to be done, —with all the duties of that work and the conduct of it,— and the laws bearing upon it. He commenced his duties as every intelligent officer would, by studying up the laws which bore upon them, in order to ascertain what the limits of his official duty

were, and what was required of him by the various enactments of the Legislature, leaving the details of the office to the Deputy and the clerks, who were familiar with that business. He gradually worked into a knowledge of the office, and, as he did so, one thing after another presented itself to him, which he thought necessary to correct, and he corrected them. He commenced systematizing the work. He commenced doing away with various abuses which he found existing, and from time to time made changes in the office. We shall show you that these changes were met by a resistance on the part of his then Deputy,—every one of them as they then came up,—until it finally became necessary, in order that the office might be conducted with decency, and care, and system, that the Deputy be discharged, and then there was a change made in that office.

Now, sir, we shall not claim, neither do we wish to be understood at all, that in making this line of proof, that we are casting imputation upon the former administration of that office. It is a fact within the knowledge of any one who has given any examination to the matter, that the office has run itself for years. Of the last five or six, Commissioners, in fact Mr. President, every Commissioner who has conducted the administration of this office ever since it has been located in Lansing, only one beside the present Commissioner has given any personal attention whatever—I will not say any personal attention whatever—but only one who has given it his undivided attention, only one who has been present to administer the office himself. All former Commissioners, with the exception of Mr. Hewitt, have had their business away from here, and have attended to their business, only coming here once a month to meet with the various State Boards of which they were members, or upon special occasions, when summoned here to attend special things in the office. Is it any wonder that under such a state of affairs, with no responsible head of that office present to superintend and supervise its conduct, that many abuses should grow up there? We cannot, we shall

not stop here or anywhere to censure former Commissioners because they did not come here and attend to their dutes. The State has virtually said to them, You had better stay at home; you cannot afford to come. We only ask you to go there and sit upon the Boards, and be a kind of a figure-head in this department of the State. But from necessity, the absence of these former Commissioners,—from the fact that the office has been run by a Deputy, and by clerks who were not responsible to the State, who had no particular official responsibility resting upon them, these abuses have from time to time been inaugurated, and have formed precedents and have acquired such a force, that to correct them has produced this confusion, this conflict, these charges, and, eventually, this impeachment trial.

Now, sir, I propose to enumerate what we shall show to have been the changes or some of the changes that the present Commissioner has made since he has had charge of the office. One of the first things that forced itself upon his attention, was the fact that moneys were received in the office, and no account made of them,—moneys to the amounts of hundreds of dollars a year,—yes, of thousands of dollars a year; moneys from plats, diagrams, field-notes, and various other work that was done in the office, which was received and put into envelopes, pushed into a drawer, left in the safe, and no account whatever made of them. He saw the necessity of having an account made of those moneys, not only for the protection of the interests of the State, but to remove from his subordinates, —clerks, Deputy, and others who had charge of these matters, —any temptation to defraud the State; and the change was made. Now every dollar, that is paid into the office, is immediately entered upon an account-book, and at the end of every month this money is paid over.

Another thing which attracted the attention of the Commissioner, was the fact that no account was then kept with these contractors,—these men who were building roads and digging ditches through the State, and who had contracts for thousands

and thousands of acres of land, who were giving orders to A, B, and C, for reservations, and for matured and unmatured scrip. One had been commenced and allowed to fall into disuse,—had not been brought up. He put that matter into system,—ordered that the account with the contractor be brought up, and found it necessary to employ extra help to do that, and he did employ an extra clerk for that purpose.

Whatever accounts had been formerly kept with the contractors, had been kept, as lawyers might say, in hodge-podge.

To illustrate: The Obed Smith matter, which has been before the Senate. Four or five contracts all put into one general account,—orders drawn upon Smith's account, and charged up to the whole of them,—some of them falling due at one time, and some at another,—having matured scrip on some and unmatured scrip on others,—a perfect confusion existed there, and the Commissioner determined that these contracts should be kept separate, and that the reservations should be kept upon the contracts where they properly belonged; and this reform was made.

Again he found all moneys that were paid into the office from time to time, from office-plats and field-notes, were kept from the Treasury, allowed to accumulate along, and were used for the purpose of buying scrip for personal advantage,—advantage to the Deputy and the Commissioner.

As soon as this came to the knowledge of the Commissioner, he ordered it stopped, and ordered the money to be paid into the Treasury regularly at the end of every month, and that this account of field-notes, plats, and fees should be balanced.

He also found that affidavits of abandonment were allowed, under the law of 1865, to be made solely by the applicant, while the law required that they should be made by two responsible parties, or by the supervisor of the township. He corrected that. It was a loose way of doing business, under which abuses had grown up which were very detrimental, not only to the interest of the State, but to the homesteaders. These men who speculate in wild lands and Government

lands, are not, all of them, as Cæsar desired his wife to be,—above suspicion; on the contrary, the facts prove that many of them were ready to make these affidavits without sufficient knowledge of the facts. In other words, they would willingly perjure themselves for the sake of getting that land.

We shall show you that, in a single instance, one man, who has been a witness on the part of the prosecution, came to this office with an old form of affidavit of abandonment, with his own name attached, sworn to by himself, and that he was refused a reservation on those affidavits,—the Commissioner refused to allow him to enter up those lands on this affidavit,—and that he then and there confessed that he could not get any other affidavits than his own.

The Commissioner also, after becoming more familiar with his office, ascertained that the clerks had sometimes been in the habit of acting as agents for outside parties in the purchase and sale of land, and other irregular practices which have been shown in the office; that as soon as that matter came to his knowledge, he immediately instituted some rules, among them a rule forbidding his clerks to act as such agents.

Again, he found that there was no regularity in the form of the orders that were sent to the office by these contractors, a mere slip of paper,—a corner of an envelope,—anything on which a few words could be penciled, was considered sufficient to give A, B, and C credit on the order of the contractor. These orders did not carry with them the matured scrip. In other words, they did not allow or provide that the man who held the order might have the land patented to him when the scrip did mature; but it had been the practice of the office to patent these lands up, whether the order required it or not. The Commissioner found it necessary to change the practice in that regard, and now requires that where orders are sent by contractors to the office they must state specifically that when the credit or the scrip matures, that the land may be patented up to the party holding the order, or else the charge is made directly to

the contractor himself on that order, thus avoiding much of the confusion that has arisen heretofore in this matter. And out of this regulation has arisen a part of the ill-feeling, and a part of the confusion that it is attempted to charge on us, by the prosecution of this case, as corrupt conduct in office. The Commissioner also found that when moneys were sent here for the purchase of land, that the Deputy was in the habit of putting that money into his pocket, and entering that land with scrip. As soon as that matter came to the notice of the Commissioner, he ordered it stopped, and ordered the money paid directly into the Treasury, and the land entered as a money purchase; and that that has been the invariable rule since this knowledge came to the Commissioner, with this single exception: that where money was sent for fractional pieces, and not enough money sent, the land has been entered up in scrip, and the margin of the money sent back to the party entering it. I think, however, only one such instance is in evidence.

A man, by the name of Coffron, sent down $50, and it appeared that the piece he desired was a fractional piece,—over forty acres. Not enough money was sent, and it was entered with scrip by Wm. A. Barnard, and the balance of the money, $17.25, was returned to the party.

Now, Mr. President, we have not attempted to put into order what we have had to say in the opening of this case, nor to follow the order of the articles of impeachment, but to follow the testimony. Under the two general provisions embodied in the case, the respondent is charged with official misconduct, and with personal misconduct.

We shall first give our attention to the charges of official misconduct, and shall follow the proof, and not the order of the charges in the articles.

The first thing to which we ask your attention, is the charge of buying and selling scrip.

We have admitted, in our answer to the articles of impeachment, that we did buy and sell scrip; we have never denied it.

We now, freely and frankly, admit that Wm. A. Barnard & Co. is Wm. A. Barnard and Charles A. Edmonds, and that Wm. A. Barnard and Charles A. Edmonds have dealt in what is called scrip to the extent and the amount as stated by the witnesses who came here from the bank. And we shall not put in anything, in evidence, as explanatory of that matter. The question is already before the Court. We shall simply claim this: that we did as we had the legal right to do, and that in doing it we have not defrauded the State, that we have not defrauded anybody, and that there is no injury to come to any person by reason of that transaction. We shall claim that we have the same right, here in Lansing, to deal in scrip, as if we lived in Detroit, Battle Creek, Marshall, or Saginaw. We shall claim that we have the same right, if we came here to give personal superintendence in this office, to transact other business here, as we should have had if we had staid at home, and come only once a month to meet on this Board, and transact business there. In other words, if, when we were elected Commissioner of the Land Office, we had been engaged in banking at home, and we had been engaged in buying and selling scrip, or land warrants, that we might continue the business of buying and selling in Coldwater, and nobody could have said aught against it. I think we have the same rights in Lansing that we should have had there, for the school fund, the counties, nor individuals have not, in any way, or in the slightest degree, been defrauded or injured. I do not know that it is claimed, or will be claimed, or can be claimed, on the part of Managers, now, under the proof before the Court, that that is possible. It seems to me, the only claim that could be made, would be where we had practiced entering up the land with scrip, when money was sent here.

We shall insist before this Court, and we shall prove to you from the records in the office, and from the officials in the office, that the State has received every dollar of pay for every particle of scrip that we have handled or dealt in, and thereby

the State could not have been defrauded. We shall claim that every dollar of money that has been sent here for the purchase of land, excepting where the land is fractional,—that every dollar that has been sent has been paid into the Treasury, and the land entered up, and thereby the counties received their per centum and the school fund its quota.

The next thing we shall call the attention of the Court to, is the selling of licensed land without the three months' proof. We have no additional evidence to introduce on that charge. We admit it in our answer, and we admit it now. We claim, in our answer, that we not only had no discretion, but it was imperative; but if this land was for sale, the Commissioner should put it into market, if this three months' proof was not not filed. We admit that abuses have grown up under this decision. We are not here to palliate or excuse these things at all, that have been put in proof; we have not one word of explanation of the conduct of these outside parties, who have robbed these homesteaders of their land,—who have taken their oxen, or their last dollar, and relieved them of their homesteads, but we deny that we had any interest in this matter. We shall claim, so far as that is concerned, that that was a *bona fide* sale in each of the three instances mentioned. It was a *bona fide* sale,—it was all right. The money or the scrip was paid into the Treasury, and that there is not anything in the records of the office, from which the Commissioner could ascertain that there was anything wrong in this matter; and, even if he could, there was no discretion.

We stand fairly upon the law, and say, that if we did wrong, it is the law that made us do wrong.

We claim the same thing in regard to what has been charged here as overloading contracts, or reserving on contracts twice, and we shall simply put in this testimony to explain that matter. All that is meant by overloading contracts,—all that the Managers could mean by the use of that word in the examination of a witness,—is simply this: That the law allows

every contractor to reserve lands up to the full amount of his contract.

When the contract is completed—not when the job is completed, but when the contract is completed—the law allows the contractor to reserve land to the amount of his contract. Now, when the contract is reserved full, and it is not claimed on the part of the Managers that more has been put upon it, then the contractor may have part patented up to him on matured scrip. Thus the contract is unloaded, as they call it, and then the contractor reserves again to the amount of his contract. We admit that practice. We claim that that is perfectly legitimate and right. We claim that the Commissioner could use no discretion in this matter. If Obed Smith has a contract which allows him to reserve ten thousand acres of land, he may reserve that ten thousand acres; if at any time after that contract is reserved full, he wishes to patent up five thousand acres of that land, he may do so, where that land is reserved on that ten-thousand acre contract; when five thousand is patented up by the State, and the contract only shows five thousand reserved, what is there to prevent him from reserving the five thousand acres again? Is the State defrauded by it? are other parties defrauded by it? If by the ingenuity of counsel, or of any other party that has investigated it, it can be shown, we submit to it, otherwise we shall claim that no possible injury could have occurred. It was entirely legitimate and proper.

The Presiding Officer—The Senate will now take an informal recess of ten minutes.

After the recess, Mr. McGowan proceeded as follows:

Mr. President: I wish to correct a misapprehension in regard to a statement I made previous to the recess. I did not mean to be understood that if Obed Smith had a contract for a thousand acres of land, and he reserved his contract full, and then five hundred acres of his land should mature, and he patent it up on that contract, that he could then reserve

five hundred acres more. I meant this: that, if Obed Smith has a contract for a thousand acres of land, that he might reserve that thousand acres, and that if he then had from other parties, or from other contracts, five hundred acres of matured scrip, that he might go to the Land Office and say to the Commissioner, "I propose to patent up five hundred acres of land that is reserved on that contract, and thus relieve the contract of one-half of its reservations." That was all that I meant, and that we shall claim; and that alone has been the practice of the office; not that contractors have had the privilege, as portions of their contracts matured, of patenting up the reservations made on that contract, to the amount that was matured, and then reserving as much more. We shall claim and show, Mr. President, that no such practice as that has ever been allowed in the office during the administration of Mr. Edmonds, and I shall explain that point more fully when I reach the case of the Obed Smith and Bathay contract.

Now, I ask the attention of the Senate a moment, to the charge made against us here, in the evidence, of holding lands upon quarter payment, on check. We do not deny that lands have been held here for parties, on their depositing their check, for quarter payment,—school lands. The law specifically provides, that lands may be sold to parties on their paying twenty-five per centum of the purchase price of that land,—in certain event,—with certain conditions; and we shall claim, and show, that wherever lands have been held upon check, upon quarter payment, that they were of that class of lands that the law allowed to be sold upon quarter payment, and that in every case where we have taken a check or draft, we have only done so when we had the assurance that the check or draft was equivalent to the State to the amount of money that was represented by it. And we shall be able to show, by a decision of the Supreme Court, that that discretion was vested in the Commissioner; that he had a right to take a check or draft of that kind, if he chose to do so,—and his, and his alone, was

the risk, if the check was not paid; that the lands could not, in any event, be thrown back upon the market, and that the party for whom they were held must take them. And we shall show that this alone has been the practice of the office with regard to quarter payment and holding land upon check, and that, in no case, where a check or draft has been deposited in quarter payment on that class of lands, has payment been refused, but in every instance has the State been paid in full.

Now, Mr. President, we have also been charged here with defrauding the contractors, by allowing others to reserve their lands,—that is, the contractor's lands; and the case, and the only case, is that of Obed Smith, where he was an original contractor and the assignee of several other contracts,—among them, a contract from Bathay. We shall show, Mr. President, that the facts in that case are about these: That, several years ago, Mr. Smith became a contractor, and that, with his original contracts, and the contracts assigned to him, he eventually held five different contracts; that under this system of throwing contracts together, in the accounts of the office, that all of these contracts were put together, and reservations made on any, each, or all of them, as the case might be,—that that was the condition of his account with the office, as a contractor and assignee of contractors, when Mr. Edmonds came into office. That, after Mr. Edmonds came in, Mr. Smith became the assignee of Mr. Bathay, in a large contract. That the clerk in the office who had charge of those books, and who was at that time making up accounts of the contractors, was instructed to make up this Bathay contract by itself, under the general instructions that hereafter all contracts should be kept separate.

Mr. Ripley came to the office, and had a consultation with Mr. Gillam, the clerk in charge of this department of the office, about lands. They were looking over the books, and he (Ripley) asked after the lands of Obed Smith. Gillam told him that he thought that Obed Smith was over-reserved. He asked him to make an examination of the books and ascer-

tain the fact, and if it was so, to give him a list of lands, commencing at the bottom of the list. Mr. Gillam did it, made an examination of the account of Mr. Smith, and from his examination, determined that he had over-reserved the amount that was due him upon his various contracts, and gave Mr. Ripley a list of those lands; that Mr. Ripley went away, saying that possibly he might make an application for them, and if he did, that he would do so within a short time. That a short time after that he sent an application to the office for those lands, and, upon an examination of Mr. Ripley's account, it was then ascertained that he had not credit enough upon his accounts to reserve all the lands in the list which he had sent, which included all the lands that were over-reserved on Obed Smith's account. He then telegraphed that the lands should be reserved to him as far as his credit would go, taking the land the farthest north. [To the respondent] Am I right, Mr. Commissioner?

The Respondent—Rejecting the lands farthest north?

Mr. McGowan—Rejecting the lands farthest north, and reserving to him the full account of his credits in the office at that time; that was done; and his mark was put upon the land, and they were reserved up to him, to the amount of his credit, rejecting the lands farthest north that he had sent. That the balance of these lands were then handed over to Elder Potter, who has been a witness here, as agent for Edmund Hall, and were reserved up to Edmund Hall upon his contract; that afterwards Mr. Smith came down here to make a settlement with the Land Office, and in looking over the account, he claimed that these reservations should not have been made in behalf of Ripley and Hall,—that he had not over-reserved his various contracts. Upon investigation it was found that there were seventeen hundred and some odd dollars, or acres of land, charged to him in David Preston & Co.'s matter; that a thousand dollars' worth was charged to him on the reservation of Bathay, the time he made the assignment; that a portion of his credit which he was en-

titled to by reason of building the road longer than the contract called for, had not reached the Commissioner's office, but was still in the hands of the clerk of the Road Commissioners. Also, that he had given orders to various parties to reserve lands upon his contracts. That these orders had been charged up to him in full, but that these parties to whom he had given the orders had not reserved to the full amount of their orders. For instance, he had given one man an order of a thousand acres of land, to reserve upon his contracts to the amount of that thousand acres of land. That man had only reserved up, say, three hundred acres. Smith claimed that he was entitled to be credited with the balance of that order, seven hundred acres, while the Commissioner claimed that he was responsible to the man to whom the order had been given for the seven hundred acres, and that it was properly charged to Smith's contract; that out of these various differences grew the conflict between the Commissioner and Obed Smith, and these alone, and that they were corrected in the various ways that have been stated here in evidence. He rescinded some of the orders. He procured other orders returned to him. He settled up with Mr. Bathay and gave him an order for matured scrip, and got him to release the order for the thousand dollars. He went to the Road Commissioner's office and got his credits from there, and brought them into the Commissioner's office, and in various other ways the amount was corrected; and then, although Mr. Ripley had very properly reserved those lands, and Mr. Hall also, yet, at the solicitation of the Commissioner, they released them in favor of Smith, from the fact that he, Smith, claimed that some of the lands had already been sold, and he had agreed to give patents or deeds for them himself, and from the further fact that he had reserved them, as he supposed, legitimately upon his contract, and that he was entitled to them by reason of that, and from the fact that these other things were mistakes. We shall be able to show to the Senate that there was no possibility of any fraud or corruption in the matter; that Mr. Ripley never

offered to pay a cent to the clerk who furnished him that list; and that, under the rules and practices of the office, had anybody else applied for such a list they would have received it. We shall admit, and show in evidence, that if any man comes into that office and asks for a statement of the account of any contractor he gets it. If the contractor has reserved, by accident or otherwise, more than his contract allows, whoever makes an application for those lands, they will be reserved to him, and in that matter the Commissioner would have no discretion. When Obed Smith has reserved to the full amount of his contract, if any other lands are marked up to him, those marks are void; and if Ripley makes an application for those lands, he is entitled to them, and the Commissioner must reserve them for him if he has the proper credits. That is the history of this Obed Smith case.

The next thing that we shall ask the attention of the Court to, is the charge that the clerks have bought and sold land. The clerks that are charged with these irregular practices, or, if you choose to call it, these criminal practices, are Barnard, Van Dunham, Clark and Griswold. We shall introduce evidence that will clearly show to the Court, in the case of Mr. Barnard, that he has never bought and never sold one acre of land that belonged to the State of Michigan during Mr. Edmond's administration. He has never dealt in any public lands in any sense of the term. Whatever lands he has ever traded or sold have been lands that were entirely out of the market—lands over which neither the Commissioner nor the State of Michigan had the least control. They were lands which they could not touch, and he traded and sold those lands by an arrangement with the parties who did control them, and who owned them.

We shall show to you that the arrangement made with Mr. Bush, as he claims, was made simply for the purpose of procuring minutes of the land, and not for the purpose of procuring titles. The Court will remember that Bush, in his testimony, stated that whenever he went out to

look for lands, under an arrangement with Barnard, at each time a special arrangement was made, whatever it was. The Court will also remember that Bush testified that when he talked of selling lands, he meant selling minutes of lands. When he sold lands to Ripley, he simply sold him those papers on which he had scratched down the amount of timber, the kind of soil, the descriptions of the lands he made while upon them, and entirely outside of the office. We shall be able to show to you, that of all those minutes, made by Mr. Bush during Edmonds' administration, which were handled by Barnard, not one acre of land was reserved, either for the benefit of Mr. Bush or Mr. Barnard; but that every acre of it, that was described in those minutes, was turned over to Edmund Hall, and by him reserved upon his contract, as we admit, and as Bush stated, to the number of 1,900 acres and upwards, and that Mr. Edmund Hall agreed to take those minutes, and settle with Bush for his trouble in procuring them.

We shall show you that, in the lands traded to the Hudson boy and to the old gentleman, and the lands traded to Munroe, that they were already out of the market; they were lands that had been reserved up upon Hall's contract, and they were traded under an arrangement with Hall himself. They were virtually leased lands, and did not belong to the State.

The only way that they could ever have come back into the hands of the State, would have been by this reprehensible practice, which the Managers have shown to exist in the office previous to Edmonds' administration, whereby a lot of lands were reserved to some one, and then thrown back upon the market. There has been no testimony that brings that home to this Commissioner,—that ever an acre of land was taken from the market on a reservation,or by any other means, while he was in office, and then allowed to go back upon the market. We shall show that when a party reserves lands upon his own contract, he must patent them, either with the matured

scrip of that contract, or the matured scrip of some other contract, or by cash purchase.

Now, sir, we shall show and claim that this land was all taken out of the market by Hall, and had been properly reserved upon his contract, that he alone had control of it, and that he gave Barnard permission to sell this land, directly and specifically, and that it was this land and this alone in which he dealt.

As to the dealings of Mr. Van Dunham. we shall offer no evidence. We shall make no excuses, no explanation. We shall simply claim in that matter that we knew nothing at all about it; that we had no reason to know anything about it; that it never came to the knowledge of the respondent, either directly or indirectly, that any of his clerks ever had any interest in any State lands or that they were in any way violating the law of 1861, which prohibited employees in the Land Office, as well as those in the Auditor General's Office, from dealing in State land. Van Dunham and Clarke are both in the same category They have done what they did. They have testified to it. It is before the Court, and I say we shall make no explanation of it.

Now, with regard to Mr. Griswold. There is no evidence to show that Griswold ever bought any land. All the evidence, I think, is that he simply sold lands that had been already purchased, and that he had no knowledge of them at the time the purchase was made, and that he had no interest in the lands previous to their reservation, but only an interest after they were reserved and taken out of the market to sell them, or act as agent for the sale of the land and not for the purchase of them from the State. The same with Mr. Barnard.

In looking over this matter, the Court will be surprised at the number of witnesses that have been sworn upon this point. There is Busch, Bouck, and Long, and Woolover, and Wing, Conley, and Munroe, White, Cornell, and the two Hud-

sons, and others,—in all some fifteen witnesses, I think, have been sworn on this one point in the case, and we ask the attention of the Court directly to the evidence of one or two of these witnesses.

First, the matter of Mr. Hoyt. The prosecution have sought to show that Hoyt bought a piece of land, on which Conley lived, and which he had licensed. We shall show this state of facts, in connection with the case, that on December 14th Mr. Hoyt made a formal and proper application for that land. That on an examination of the land it proved to have been licensed land, which had been licensed many years before, as you will remember by the statement of Conley himself,—I think some six or seven years; that there was no proof of settlement; that the three months' proof had not been filed; that the land was in the market, and under the rule of the Commissioner, which he had adopted before that time, he sold the land to Hoyt. The application was made on the fourteenth of December. On the ninth of December Mr. Conley wrote to this office, asking what was necessary to be done, that his land might be patented up to him, or that he might get a full title to it. That letter was received here on the nineteenth, five days after the application was made by Mr. Hoyt.

On the twentieth, the land was made up on the certificate to Hoyt, on his application. On the twenty-first, the entry was made in the Treasury department, and the patent issued. On the thirteenth of December, we shall show to the Court, that the Commissioner commenced moving his office, from the old offices to his present place of business, and from the thirteenth to the nineteenth of December, but very little business was done in his office. The books were simply kept open for application, and the applications marked and filed, and that was all that was done to them. For three or four days before that, no letter was opened in the office. During the whole of that time no business was transacted, as we recollect now, with the Treasurer's office.

This application was made on the fourteenth of December, the next day after they commenced moving the office. I say the applications were received and filed, simply. On the nineteenth the letter reached here asking what should be done. There is no reason to believe,—and the chief clerk has no recollection that he ever knew anything of this letter of Conley's. It reached the hands of the Deputy Commissioner. He went and looked up the land, and found an application had been made by Hoyt for the land. He wrote back to Conley to that effect, although Conley has stated in evidence that he never received the letter, and properly so, for he never did. But we shall show you, that on the twenty-first of December, the second day after receiving that letter,—even in the midst of the whirl of business,—in the midst of the confusion of that bundle of letters that had not been opened for several days,—the Deputy did write to Conley that his land had been purchased by Hoyt, of Saginaw, on the fourteenth of that month. The letter of Conley's was written at North Branch; was headed at the top of the letter North Branch. It is a long straggling letter, filling a whole page of commercial note, and just at the foot of the page, as you will see when the letter is introduced in evidence, is a statement to direct the reply to Clifford postoffice. The letter that was written to Conley was directed to North Branch, instead of Clifford, by mistake.

It was put into one of the official envelopes with the return card upon it. It went to North Branch and was returned with dozens of other letters which came back to the Commissioner's office, and thrown into a box where those letters are kept. Since this testimony was offered by Conley, search has been made, as the recollection of the Deputy was that he had written such a letter, and the letter was found, with the post-mark, and the dates, and everything to correspond with the statements that I have made, showing that the office did its duty in that matter, so far as it was possible. Hoyt had made his application five days previous to the receipt of the letter from Conley, and the

land was made up to him the next day after the receipt of that letter from Conley on the twentieth, and before the chief clerk or any one else in the office knew of this letter being there except the Deputy himself.

We shall, however, claim this: that even though this letter had reached the office, and reached the. attention of the Commissioner, yet, if Mr. Hoyt insisted upon his application, he could have had the land in spite of the Commissioner. We claim that that land was in the market, and had been for years in the market for want of the filing of this three months' proof, and that the Commissioner had no discretion with regard to it. I say, even if these facts which I have stated, that did not reach the Commissioner, had reached him, Hoyt could have had the land. If that letter had come directly through and reached here before Mr. Hoyt made the application, and Hoyt had come before the three months' proof was filed, he could have had the land. The Commissioner could not have helped himself, and had he undertaken to have used any discretion and refused Hoyt that land, it being land which was for sale in the market, by the laws of the State he could have been forced to do so by a proper writ from the courts.

We ask your attention in this connection to the charge of the clerks receiving gratuities. It is claimed on the part of the prosecution that this purchase and sale of lands on the part of clerks, and also this charge of taking gratuities on the part of clerks, was brought home to the knowledge of the Commissioner, and that he knowingly and corruptly allowed these practices. That we shall deny. We shall put in evidence that he had no knowledge of these transactions, be they what they may,—either of Mr. Barnard selling these lands of Mr. Hall's, or of Van Dunham, or Clarke, or Griswold; but that his direct instructions, as contained in the rules submitted to the clerks, and laid upon the table of each one of them, were that none of them should act as agents for outside parties.

Now, with regard to the clerks taking gratuities. There are Barnard, and Robinson, and Van Dunham, and Clarke, and Griswold. Mr. Robinson has been upon the stand, and has explained how, and why, and when, and where he took gratuities. You remember the $50 payments. We shall offer no further explanation of that. Van Dunham has also stated how he took gratuities, and so have Clarke and Griswold. They, each and all of them, have solemnly sworn that the Commissioner knew nothing about it, whatever it was,—whether the practice was regular or irregular,—whether it was commendable or to be condemned. In any event they had kept it entirely secret from him, and he knew nothing about it.

We shall show, in addition to that, that another clerk in the office, who, at least, is far above suspicion in any regard, and whose word is entirely reliable, and will be accepted by this Court,—that he had some such proffer made to him, one time specially, by an individual asking him to enter into an arrangement to give him some extra help in his application for land; whenever his application was for licensed land, to look them up and mark them, whether the three months' proof was filed, whether under the rule of the Commissioner they were considered in the market; or, when his application was for land that was upon the plats as reserved, whether they were over-reserved. For such extra help as this, this clerk was approached by a certain party and told that he would pay him for it,—he would make it all right for his trouble. He went to the Commissioner with that application, stating to him what the application was, and asking him whether the scope of his rule was such as to bar him from doing a thing of that kind, if he did it outside of office hours, if he did it when there was no injury or damage to the office, or to his duties as a clerk, and the Commissioner peremptorily refused him any such privilege or right. That is the only time that it ever came to the notice of the Commissioner that any of his clerks had been solicited in that manner, as has been claimed by the Managers in this case.

Now, we shall only introduce testimony to explain in regard to one gratuity. Griswold, Robinson, Van Dunham, and Clarke have explained their own. The one I refer to is with reference to Barnard. It is not claimed that Barnard has had fees passed him over the counter. It is not claimed that he has had money sent to him by outside parties to pay him for certain things, except on one occasion, and to that we now invite your attention. The Court will remember that it is in testimony that Mr. Goddard wrote a letter to Barnard, at one time, and inclosed $5 to him; that Mr. Alderman testified that he heard that letter read, and that Goddard said in that letter,—after hesitating and asking the Court if he should use the exact language that was used by Goddard—"for God's sake do something for a poor fellow; there is $5," inclosing $5 as a bribe, expecting that Barnard would hold the land for him—certain school lands—on quarter payment.

Mr. Manager Cochrane—Mr. McGowan, I think the testimony does not show that there was any statement in the letter, or any reference in the letter to money. It says, "Do something for a poor fellow, for God's sake."

Mr. McGowan—If you have the files I will refer you to the pages; you may look on pages 328 and 329. I think the counsel will find that Alderman stated that the letter contained a description of the land; that it also stated that there was inclosed a draft for the quarter-payment of that land, and then afterwards, that it stated, "I inclose $5 herewith, and, for God's sake, do something for a poor fellow."

Mr. Manager Cochrane—He did inclose $5, and said "for God's sake, do something for a poor fellow."

Mr. McGowan—Whatever it may be, it will be remembered by the Court that we applied for time until we could make search for that letter; it will also be remembered that we were not allowed the time, but that it was promised that if we found the letter, we would produce it. It was also apparent, I think, from the testimony of Mr. Alderman, that that letter contained something else besides the mere application for that

land,—that there were other things in the letter,—and we have also already put in testimony, that frequently where letters were of a personal or social description, or contained other things that were not purely official, that they were not always filed with the official letters. I state it as a fact that we have searched since, and that the letter is found, and when that letter comes to be produced in evidence, it will be found by the Court that Mr. Alderman's memory has misled him as regards its contents, as bad as his old compass misled him with regard to the location of these two fractional pieces of land down on Clam Lake; that he has either willfully misstated the facts in this case, or that he has a wonderfully treacherous memory. The letter will speak for itself. We shall introduce with that letter another letter, which came but a short time ago from the same party, which will be explanatory. We shall show this Court that it was no uncommon thing for Mr. Goddard to send money here to this office more than was necessary; that he sent money at other times, when he had no possible reason to ask for any accommodation. He sent money here, when he was simply paying his taxes upon his lands, and gave the description of the lands themselves; and when it could be of no possible benefit to him, in any such way, to pay a gratuity, to bribe a clerk, to pay a Deputy for extra work,—when he must have known that it was something that the office must do, as their official duty,—yet that he sent money. We shall show that he was a familiar friend of the Deputy; that at one time in paying his taxes (which were some fifty-six dollars), he says: "Inclosed find a draft for sixty dollars. It is a little more than my tax; but give the balance to the poor, and, when you give, feel, and eventually we shall all be saved from damnation;" or something of that kind—"Buy a cigar." And that in this case, which was claimed by Mr. Alderman as the one on which the application was made in favor of Stoddard, that Stoddard said nothing about reserving the lands for him, as an extra favor; that he simply said this: "Inclosed find

draft for the quarter payment," on such and such lands, giving the description, "which please hold for me;" also that he said further along in the letter, after asking that none of his reservations be rubbed out, after asking that the deed, which he inclosed in the same letter, be corrected with regard to the initial of his own name, which had been improperly put in, he says: "I inclose five dollars to buy a cigar,—a New Year's present." He wrote this letter between Christmas and New Year. We shall show you, also, by two good witnesses, right in that connection, that the land that was thus reserved up, or held by Mr. Goddard on this application, was not pine land; we shall show it by men who went over every foot of it, almost; who examined those two fractional pieces expressly for the purpose of entering them. We shall show to you, also, that that knowledge had reached the Deputy Commissioner before he received the application from Mr. Goddard; and we shall claim that the law gives the Commissioner the discretion to sell these lands upon quarter payment, whenever he, in his judgment, shall consider the lands not mainly valuable for timber. The law does not specify how he shall get this knowledge; he may get it from actual observation of the land; he may get it from any source he has a mind to; the law does not specify. When he gets it from no other source, we admit—we claim—that the custom, the practice of the office is, to require an affidavit; but when he has that knowledge, he does not ask the affidavit. Upon this, we shall claim that it had reached the Deputy Commissioner by a man who had these two fractional pieces looked over especially with reference to entering them for pine lands; that they were not pine lands; that they were not chiefly valuable for timber; that Mr. Ortman, from Saginaw, a man who deals chiefly or wholly in pine lands, as they are understood by the northern men,—lands that are chiefly or wholly valuable for the timber that is on them,—had sent a man out, who had examined these lands for the purpose of entering

all vacant pines on the section,—that school section of land; and that the man had returned and reported some lots of that land good for pine, and in looking over the balance Mr. Ortman said, "But what is the matter with these two fractional pieces down by the lake." He says: "They are not worth paying for; there is not enough pine on them to pay you to buy them at ten shillings an acre;" and Ortman was not yet satisfied, and he sent another man down there and told him to look these fractions, especially, he having bought other lands on that section, and he wanted those lots if they were worth anything; and he sent his second man,—a discreet man, a man who had been looking lands for Mr. Ortman for years, a man who had been in the woods for nearly twenty years; he examined these lands, and returned, and reported to Mr. Ortman that they were virtually worthless for timber. Then Mr. Ortman came to the office, and the Deputy Commissioner, in talking with him says, "Why did you not take those fractional pieces?" and he says, "They are not good for anything; I do not want them; I would not pay for them what the law requires, if I could have them, because I have had them looked by two of my best men, and they are not good for anything." We shall put these "two best men" upon the witness stand and they will make the statement to you, that they examined these lands, and that they were worthless. We shall show you that this knowledge had reached the Deputy Commissioner, and, using the discretion which the law allowed him, he made up these lands to Goddard on his application, upon quarter payment; that Goddard sent a draft, which was honored, the money was paid and put into the Treasury, and that the lands were made up to him as lands which were not valuable chiefly for timber. So much, then, Mr. President, for the corruption of the Deputy in taking gratuities or bribes. If we did not have this explanation of this matter; if we were not able to present to the Court this testimony entirely clearing the Deputy Commissioner of any charge of malfeasance or misfeas-

ance, we should yet claim that it could be no charge brought home to this Commissioner. There is not a scintilla of evidence to show that he knew one thing about it; that he had any reason to know anything about it; that there is anything in the record that should have directed his attention to it, to show that it was corrupt,—if corrupt,—unless he had found this letter; and the letter you may examine for yourselves, and see how far that would have directed it. The application was made by Goddard; the lands were patented up or made up to him, as they say,—because there are no patents issued from the Commissioner's office,—the lands were made up to him, on quarter payment, as lands that were not valuable chiefly for timber, and he had the evidence of the statement of Mr. Ortman, that he had had them looked, and that they were not so valuable; and, in addition to that, if the Commissioner had gone to the record and examined it with reference to that, he would have found this state of facts: that every other lot of land on that section had been reserved or bought by men who were dealing in pine lands. The inference was that those men would have had them if simply for lake-shore privileges, if for nothing else; it would have paid if they had paid the government price for these two pieces; so that take either horn of the dilema, we shall claim that the Commissioner could not have committed corrupt conduct in office in this manner.

Mr. President: We have also been charged with having increased the number of clerks. We shall show you that when the Commissioner came into the office he found the office-work in a very bad condition; that he found that very many of the records were far behind; that he found that these accounts with the contractors were in a perfect state of confusion, and that the contractors were pressing for settlement of their claims; and that it was necessary, to settle the claims with contractors, that there should be some account carefully made of their dealings with the office. We can show that since Mr. Edmonds' administration, he settled

with a single contractor where it took two weeks to make the settlement, and in that settlement he patented to that one contractor 63,000 acres of land, in all sizes and descriptions; in pieces from forty acres up. That it became necessary that these contracts be put into shape, but that with the number of clerks then in the office it could not have been done, and that for the very safety of the State itself, in the careful conduct and system of the office, it was necessary that the clerk be employed at once and put on that duty; and that he employed a trustworthy and able man, and he has been at it ever since.

He also found that parties, heretofore, were allowed to go into the office, and, from the condition of the books, they were allowed to go through the office, and take this book and that,—whatever they chose,—giving them the fullest opportunity to make false entries on the book, etc., leaving the affairs at loose ends. That papers were mislaid, and that even some of the patents were lost, as the Governor has told you this morning, and they could not be found,—because they were handled by every body; that the public property, in that office, was absolutely endangered by this loose method; but there was no clerk there to do that, and he employed one in his own discretion,—and I think the Court will say properly,—to hand out these books and see that there are no improper marks put on them; and to hunt up the files, and do anything he is required, in order to facilitate the business of the office,—that makes two. He found that almost daily applications were made to the office for abstracts of the land, and they were referred to these clerks,—the one that had the most leisure at the time. In order to make an abstract, he had to go to four or five books, and get his data from those, and that it was a work of trouble to make an abstract of the land.

He also found that the platman, when plats were asked for, had to go to half a dozen different books to make up the plats. For the purpose of facilitating this business, he put these abstracts into a shape that they might be found at a glance; and

to systematize the business, as spoken of by the Governor, he determined that it was necessary that an abstract be made of all the public lands in the State. He commenced that abstract, and is now putting upon one book what was before found in four or five books, and, in some cases, six books. When this abstract is made, one man can do more in one hour than, previous to making that, he could do in four hours. These abstracts are paid for, by the parties getting them, at the rate of fifteen cents per folio.

After the evidence is in, I think it will take but little calculation on the part of the Senate to show that all the expense made by this Commissioner in this matter will soon be refunded by that one item by paying for the abstracts by parties outside of the office. The Commissioner put four men upon that work. We shall show you that that work has been efficiently and thoroughly done; that all the Lower Peninsula, with the exception of a small quantity of land, has been abstracted,—an immense work, that four men have labored at faithfully since it was commenced; that the books are made correctly; and we shall show by the men who made these abstracts that they have corrected hundreds and hundreds of errors. This single item is itself sufficient to pay for every dollar of work put into these books. Government lands had been sold by the State, and government lands had been marked sold which never were sold, and lands marked vacant had been patented up for years and years. By an examination of the books of the office these errors have been corrected, and I say that for this correction of errors alone the Commissioner would have been justified in making the books. We shall show that the increase of force in his office has not been as great as six additional men; but that there was an average of eleven clerks in the office in 1870, and that during his administration the average has not been above sixteen.

Mr. President: We have been charged by the prosecution in this case, of withholding lands from the market for the benefit of large dealers; that when small men—small

men with spectacles—send here for a small portion of land, they could not get it; but when a man applied for land, who had a large deal with the office, he got it. There was more implied by the statement of Kershner, than what he really said. He says he went to David Preston and asked him if he could get it patented, and he came down and had it patented up in a few moments. But when poor Kershner applied, he could not get it. We shall show this state of facts. Kershner testified that he applied for the N. E. ¼ of the N. E. ¼ and the S. ½ of the N. E. ¼ of section 35, making 120 acres,—an "eighty" and a "forty" [page 189 of the Impeachment Proceedings]. That he applied for this 120 acres of land, through Theodore Day, of Detroit, and almost immediately afterwards he received a reply that the eighty acres had been sold; the forty acres were vacant, and he might have it. That the eighty acres was sold to a man by the name of Forrest, or some such name. He made some inquiry, and came to the conclusion that the land was vacant; that he then went to David Preston & Co., and had them make application for the same eighty, and without any delay the Land Commissioner responded that it was vacant, and that Mr. Preston got it. Now, we shall show to the Court this state of facts in this case: That on the 26th day of May, 1871, Mr. Day wrote to this office to hold for a week or ten days, the N. E. of N. E. of 35, T. 35 N., R. 1 E. We have his letter showing this application. We shall produce that letter in testimony, and that that is the whole description; not one word was said about the north half of the southwest quarter,—the other eighty spoken of by Kershner. It is on file and bound in the letter-book. We shall show you, by the letter-book of the office, that the Deputy Commissioner responded that that was vacant, and that he could have it; and that in answer Theodore Day again sent to the office, sending $50 to pay for the forty,—the N. E. ¼ of the N. E. ¼,—and it was made up to him. He got it in the name of Kershner, or Kershner & Co. But in that second letter,—the letter in which he sent the scrip, and took the forty men-

tioned,—he said nothing about the S. ½ of the N. E. ¼. We shall show, by the letter-book, that David Preston & Co. wrote a letter, asking that the S. ½ of the N. E. ¼ of Sec. 35, be made up to them; and it was made up to them at once. There is nothing to show that the S. ½ of the N. E. ¼ was ever sold.

The name of this man Frost nowhere appears on the office records. There is nothing to show that Day or Kershner ever applied for it. There are the letters, and they will be presented to you.

We have also been charged with selling information, —that the Commissioner knew it, and that he corruptly allowed it. Van Dunham and Robinson are the only clerks charged with these irregularities.

Robinson explained his own matter,—that he sold minutes that were given him by a man by the name of Crapo. I think we have said sufficient in regard to these minutes,—that they are nothing that are procured from the records of the office; that they are simply matters that are made up by individuals outside and upon the land itself, and that a clerk would have just as good a right to sell minutes of a Mr. Crapo as he would have to sell Mr. Crapo's horse. We shall claim that Robinson had the same right to take these slips of paper upon which were these minutes,—the description of the timber on this land —and sell them to some party, as to take Mr. Crapo's horse and drive it through the city and sell it, unless he used time belonging to the State. This information was procured outside of the office. The articles charge us with selling information procured in the office.

As to Van Dunham's selling information to Hoyt, we shall offer no further proof. You have Hoyt's statement that he paid him a hundred and twenty-five dollars, and what he paid him for. You have Hoyt's statement that he said nothing to the Commissioner concerning it, and he has no knowledge that it ever reached the ear of the Commissioner. You have Van Dunham's statement to the same effect.

Among other things we are charged with, is that of getting off jokes, and we plead guilty.

In addition to these, are specific facts that are charged upon us, and upon which we shall give testimony.

We shall also give testimony that will relate to the reliability of several witnesses that have been upon the stand here on the part of the prosecution. For instance, we shall show, by the Treasurer's books, that Mr. E. H. Porter, former Deputy, at the end of the fiscal year of 1870, paid into the Treasury over $1,900 at one time, and that he stated at that time that it was from field-notes, which had accumulated during the year, and that in contradiction to the statement which he has made upon the witness stand under oath, with his own individual check, drawn upon his own individual account at the bank; showing conclusively, I think, to the minds of this Court, that the man willfully falsified when he said that he never put that money into his own private account, that he never dealt with it, and that when the Commissioner found it out, he made him pay it over to the Treasury,—showing that he willfully undertook to fix upon this Commissioner the corruption of which he knew at the time he alone was guilty.

He did take money that belonged to the State, that was paid into the office by parties who got field-notes and plats, which should have gone into the Treasury, at least at the end of each month, and put it into his own private account. His check can be shown here. It will be proven by the Treasurer and parties who know that he paid that $1,900 out of his own fund. Is it not a little strange? It is something that you cannot harmonize with his statement that he kept that money in an envelope in a drawer, at his office; and the only conclusion you can come to is that the man is unreliable. We shall show that he received a postoffice order for sixteen dollars for plat money, eleven days after he was ordered to open an account and did open an account between the Commissioner's Office and parties sending moneys

there to the office. He resisted the request of the Commissioner to open that account on the first day of April, and it was not until the fifteenth of April that the Commissioner discovered that the account had not been commenced and the items of money already on hand entered upon it, and he then changed his request to a command. He opened it on the fifteenth day of April, and put down the items of moneys already on hand, at that time; entered the various items as they came along, up to the 26th day of April, and on the 26th day of April there came this postoffice order, and he took it to the postoffice and drew the money on it and put it into his pocket and did not enter it upon the account, but kept it until he went out of the office, and until along in June, when his attention was called to it, and then he became angry and refused to pay it back until he chose to do so, after all the facts were ascertained and the thing fastened upon him, showing unmistakably the bias and utter untrustworthiness of the witness upon whose testimony they have to a large degree relied to fix corruption upon this officer.

We shall also show that he had, previous to this time, threatened this officer with political vengeance; that he would see that he was ousted from his office, or, at least, that he would never be elected to the office again. We shall show that he took a deaf boy, an employe in the office,—a one-legged soldier, as the Commissioner is a one-armed soldier,—that he took that boy to his store, and offered him money, or said he would give money, to ascertain facts whereby he could charge this Commissioner with corruption; that he asked him to intercede in his behalf to procure the office for himself. That he has made haste in this matter, and has shown himself more than a willing witness, will appear by the testimony in this case.

We shall show, with regard to the man James H. Baker, that at the Chapman House, on the occasion concerning which he has testified, that he himself was the drunken man, and not the Commissioner; that he tried to bribe a man by the name

of Shattuck, here in town, by offering him ten dollars, to ascertain certain facts from a questionable source, and told him that he (Baker) was making money out of the impeachment case, and that Shattuck might as well make some as anybody else; that he has been something more than what he has exhibited himself on the stand, namely, a willing witness; that he has more than made haste to testify against this Commissioner; that he has used all his influence as a deputy sheriff and an Assistant Sergeant-at-Arms for this House, to bring testimony to bear against this Commissioner, right or wrong. We shall show you that at that house, on that night, he did play billiards, although he has denied it here,—not by witnesses who were intoxicated, not alone by boys who played with him, but by sober, quiet, reliable citizens who went in and saw him play. We shall show you that he was excited and intoxicated that night; that he spatted his knees and danced what they call the juba, and he spatted his knees for others to dance; and that it was utterly impossible for him to have personal knowledge of the facts which he has claimed he saw and knew. We will show that Edmonds retired from the lower room, and went to bed before Baker left the house; that Mr. Baker was still there playing billiards and drinking champagne, and offering to protect the boys from arrest by a policeman who came in after Edmonds had gone to bed that night. In other words, we shall show you that he is utterly unworthy of belief, so far as his testimony has touched upon the case.

We shall also introduce some testimony touching the credibility of the witness Bush, the witness on whom they rely wholly, or almost wholly, to fix corruption upon Mr. Barnard.

The management have introduced into the prosecution of this case three instances where homesteaders have lost their homes by reason of failure to file their three months' proofs. Some of them are very hard cases. Some of them have very properly appealed to the sympathies of this Court, and, as I have said before of those cases, we have no excuse to make for the parties who have taken advantage of the law to rob the

poor man, but in our defense we feel bound to show one more case. We shall be able to show this state of facts: That this same man, Bush, who has testified so glibly and readily against the office and against the Deputy, has not been free from the stain which this Court has fixed, if it has fixed it at all, upon Van Dunham and Cornell. We shall show, by the records in the office, that in the month of March, 1867, a man by the name of Diamond licensed a piece of land. That on May 24, of the same year, he filed his three months' proof. That on January, 18th, 1871, this man Bush came to the office, and, under the law of 1865, filed an affidavit of his own, on the form prescribed by the office,—that the man Diamond had abandoned the land, and that he was entitled to enter it.

Under that affidavit the land was sold to Ripley, for whom he was acting as agent at the time. The affidavit was the form then in use, allowing the oath to be made by the applicant. He filed this affidavit, stating that the man had abandoned the land, and it was sold to Ripley. We shall show you that on the 15th of September, 1871, James A. Markle, supervisor of the township in which Diamond lived, and in which the land was located, made an affidavit that Diamond was living on the land, cultivating it, and had been in possession of the land and had it under cultivation ever since 1867,—for four years. True, Diamond had already filed his three months' proof, but the Court will remember that under the laws of 1865, although the three months' proof be filed, yet if there is sufficient proof of abandonment, or of non-settlement, then the land may be put in the market and sold again. Markle's affidavit will be exhibited here as a part of the files of the office, and as a paper that has already been identified in this case, by Bush, himself. On the 13th of October, Deputy Barnard wrote a letter to Ripley, who had purchased the land, stating these facts set forth in the affidavit of Markle, made a copy of the affidavit, and sent it with his letter. Ripley referred the matter to Bush, sending Mr. Barnard's letter and a copy of the affidavit to him. Bush, of

course, proposed to stand by his affidavit, and wrote a letter back to Mr. Barnard, that he still believed that Diamond was not on the land. That affidavit and the letter of Barnard's are already in evidence. We shall show you that on the 22d of February, of this year, 1872, that there was further filed, as proof in this case, in the office, the solemn affidavit of four men, including the occupant of the land himself, that he was still upon the land; that he never had abandoned it; that he had occupied it constantly from the time he received it, and that he had cultivated it, showing that this man Bush is in no way to be credited in his statements. A man that will deliberately do that, is no more to be relied upon than the man who would take his neighbor's money, or do any other corrupt thing; and I imagine that the Court will "make haste slowly," when it is proposed to convict an officer of this State upon such testimony. We shall show, also, that Bush brought to the office, the latter part of April, 1871, a handful of affidavits. This, you will mark, was soon after Mr. Edmonds came into office,—in April, after he came in,—before he was familiar with the business of the office, and about the time he changed the form of these affidavits of abandonment, under the law of 1865. Possibly I should, right here, explain a little with regard to that. Although Mr. Edmonds has ruled, as Commissioner, that if these homesteaders do not file their three months' proof, the land is in the market; yet under the law of 1865, if they have filed their three months' proof, the land may still be put back on to the market by filing with the Commissioner certain testimony,—the affidavit of two reliable witnesses, or of the supervisor of the township,—that the land has been abandoned—wholly abandoned—by the licensee who went upon it; or that the land never was occupied by the licensee; that the original application and the three months' proof were perjuries, for instance, or procured by fraud or some other illegal means. By making these affidavits, the land may be again put in the market, and again sold. These are the affidavits of which he has changed the

form; that after he had changed the form, Mr. Bush came to the office with a handful of the old form of affidavits, signed by himself, and sworn to by himself, claiming that the lands described in them had been abandoned by the parties, or had never been settled upon; that Mr. Edmonds then told him that he thought that that form of affidavit did not conform to the law, that he had changed the form, that the law required that there should be two responsible parties, and that he had changed it, so that two parties must swear to the affidavit, and that their responsibility must be certified to by the supervisor of the township, but told him that he would allow some discretion in this matter, and would allow them to be certified to, by the town clerk, or by the county clerk, or by some other officer who would know, or ought to know, by reason of his position, with regard to the responsibility of the parties, but in no event would he receive those then offered to him, and on which Bush desired the land to be patented up to Mr. Ripley; and that then and there, and to his shame, he admitted that he could not get any supervisor in these townships to swear to them or make the necessary certificate; that his only resource on those descriptions was to get them upon his own affidavit and nobody's else: showing, conclusively, that he intended to act corruptly in the case, if he had not committed willful perjury.

Now, as to the question of drunkenness, we shall not spend very much time upon that. Mr. President, I do not know but we shall spend less time in the proof than I shall spend in the explanation; but we shall show this—

The Presiding Officer—Let me ask how much longer time you desire in the opening.

Mr. McGowan—I think I shall only be ten minutes longer.

Mr. Romeyn—I move that the order be suspended, and that the counsel have ten minutes.

The Presiding Officer—It will be so considered unless there is objection.

Mr. McGowan—On the question of drunkenness, we shall show that at the Chapman House, at the time he was charged with being drunk, that he was entirely sober. We shall show that he had the oversight and supervision of his clerks there, at the time that two of his clerks became intoxicated, or partially so; that he went to the bar-tender and told him that he should not let them have any more liquor; that the clerks went for more (champagne, rather, as that was all that was drunk there that night); they went for more, and it was refused them; that one of them became angry and demanded it; that the Commissioner was firm, and would not let him have any more, and gave them fairly to understand that unless they conducted themselves properly in that matter, that there would be a couple of vacancies in the Land Office the next morning; and that on this they cooled down; that they staid up until they were somewhat sober, and went to his bed late at night to make their apologies and make the thing straight that they might keep their places in the office,—they knowing that he was a man of his word. That is all there was of that spree. It was confined to the boarders and guests of the house, with the exception of Mr. Baker. He was the only outsider. The Commissioner was entirely sober. At bedtime he took his lamp and went to bed alone, the only time he went up-stairs that night. No parties went up with him. The story that he was carried to bed that night is an utter fabrication, made out of whole cloth; not a word of truth in it. We shall show by men who have known him for years and who have been intimately acquainted with him, officially and socially, that he was never known to be drunk; that he seldom touches a glass of anything that can intoxicate; that he has no such reputation, and no such habit, and that they cannot successfully fasten upon him a single instance of drunkenness.

Now, in regard to this charge of adultery, we shall not, of course, go into any statement of what we shall do in defense of what Jane Bolton may say here; and so all we have to do

is to wash that sheet. There is the adultery, if anywhere. Mr. President, we shall show to this court a state of facts something like this: That, from a boy, this respondent has been affected to a greater or less degree with a malady, over which he had no control, and for which he is not in the least responsible, namely, bleeding from the urethra; show by his family physician that it is not an uncommon occurrence; that it comes on unexpectedly, without reference to time; we shall be able to show by physicians of position and eminence, not only at home but throughout this State,—physicians whose skill and integrity will carry convictions of their perfect truthfulness of statement. In one instance, at his own home, in his own bed, with his own wife, there was such a bleeding, from that source, that he and his wife both became alarmed, and sent for the family physician, and he not being at home, the messenger ran for Dr. Cutter; that the physicians met there,—the family physician happening to come home in the meantime; that, that night, Mr. Edmonds bled as much as half a pint, until his clothes were all bloody, until the bed was bloody, until all about him was bloody, and they had some difficulty in stopping the blood.

On the night alluded to, by the witness, we do not deny that the bed was soiled; but we claim that it was soiled for no such reason as claimed here by the witness We shall show here, by medical testimony, that no woman or man can tell the difference between the menses of a woman and such discharges of blood, as I have mentioned, flowing from a man, when it is mixed upon the sheets of a bed, without a chemical analysis; and that, at least, from a casual observation, no one can tell. This lady who has testified here is simply mistaken.

It is possible, if this Jane Bolton is called, that she may swear to other instances where she discovered drops of blood in that bed; and this explains the adultery,—and this is all of it,—this is the whole of it.

Now a word with regard to Alice McCabe. And first with regard to Cole. Cole saw the Commissioner come out of Alice's. We admit it,—he came out of there in the morning,—the morning of the railroad excursion to Detroit. The day previous to that had been a show day here. The Commissioner with some of his clerks, or, at least, some of his clerks, were at the show. The next morning, one of the clerks said to the Commissioner,—one that was boarding with him at the Lansing House,—"Let us go over to the mineral spring before breakfast." They were up early and went down to the river,—to the crossing below this house. The boat was on the other side and it was early in the morning and nobody to bring it over. They staid there a while and no one came out to bring the boat over, and the Commissioner turned about and said,—"I am going back to my breakfast." The clerk said,—"I am going to stay here till I get a drink of that water, if it takes me until office hours." The clerk staid and eventually got the boat and went over and got the water and came back. The Commissioner turned back. As he was going past that door somebody rapped and asked him to come in. It was not Alice. He stepped into the hall and talked there with the individual in the hall,—asked him what he wanted, and had a conversation with him. When it was over he stepped out of the house and went up the street and about his business,—went to his office and went to work; and that is that story, and the whole of it.

We shall show you that Baker falsified when he said that Griswold and Edmonds came out of Alice's that night, if you are not already convinced of it by what the man that was with him that night said. In every material point Baker is already contradicted with regard to that statement, by the man (Bosworth) who rode with him, and who, evidently, upon the witness stand, intended to testify only to such things as he knew. He states that the men who came out of Alice's that night were about medium size, and neither of them noticed that an empty sleeve was swinging there. The man who was with

Baker that night knew Griswold,—knew him at school,—he did not recognise him as one of the men who walked away from that house. We shall show you by sworn testimony that Mr. Griswold and Mr. Edmonds were never at Alice's together —that they never went there together, and never came away from there together.

Mr. President, and Senators: We claim that when we have shown these facts, as we shall show them, to the satisfaction of this Court, we must be acquitted of these charges that are preferred here against us. That the miserable record that has been made, first, by the *ex parte* examination on the part of the committee in this case, and then by the prosecution, here, up to this date, must be wiped out; and that the Commissioner must stand, not only as legally acquitted before this Court, but as morally and wholly acquitted before the people of this State.

We shall claim, from the evidence which we shall introduce here, that he has performed his duty faithfully and well; that he has executed, to the letter, and in the spirit of the law, the great trust that was put into his hands by the people of the State of Michigan, when they elected him to this responsible office; and we shall ask, and expect, a verdict of not guilty at the hands of this Court.

The Presiding Officer—The Senate, sitting as a Court of Impeachment, will take a recess until two o'clock this afternoon.

Wednesday, P. M., May 15, 1872.

The Senate met, and was called to order by the President, *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

TESTIMONY OF HON. DANIEL STRIKER.

Daniel Striker, a witness produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. Shipman:

Question. Are you the Secretary of State?

Answer. Yes, sir.

Q. Are you acquainted with the Commissioner of the Land Office?

A. Yes, sir.

Q. How long have you known him?

A. I met him first at the convention.

Q. You have known him during his official term?

A. Yes, sir.

Q. How often have you seen him during that time?

Q. Every few weeks, sometimes as often as once in two weeks, and every four weeks we have met the last Wednesday of each month.

Q. You met him there officially?

A. Yes, sir.

Q. Been in his office frequently?

A. Quite frequently, in the other building,—not so frequently here.

Q. Have you seen him in places out of the office?

A. I have seen him at the hotel.

Q. Will you state whether during that time you have seen any indications about him of drinking liquor?

A. No, sir; I never have.

Q. Ever know him to drink?

A. Never saw him drink a glass of liquor that I know of.

Q. Have you ever seen him when you had reason to suspect that he had been drinking?

A. No, sir.

CROSS-EXAMINATION OF HON. DANIEL STRIKER.

Cross-examined by Mr. Manager Huston:

Question. Did you ever frequent those places with him where drinking is done?

Answer. I have never been in any place where drinking was done that I know of in this city.

Q. You are not in the habit of resorting to those places yourself, are you?

A. No, sir.

TESTIMONY OF JOSEPH LAWRENCE.

Joseph Lawrence, a witness produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. Shipman:

Question. Where do you live?

Answer. In Saginaw.

Q. How long have you lived there?

A. About twenty years. I have lived in the Valley about twenty-five years.

Q. What business are you engaged in?

A. Looking land and surveying.

Q. How long have you been in that business?

A. About twenty years.

Q. Do you know Charles L. Ortman?

A. Yes, sir.

Q. Did you ever have occasion to look any land for him, up by Higgins' Lake?

A. Yes, sir.

Q. I refer now to lots five and six, section 16, 24 N., 3 W?

A. Yes, sir; I looked the lands on that section the first of last June.

Q. For whom?

A. For Mr. Ortman.

Q. Did you locate any land up there?

A. I selected for him the W. frl. part of the S. W. ¼, the E. ½ of N. E. ¼, and N. E. ¼ of S. E. ¼. The rest were taken at the time, I believe, and I also looked the S. frl. ½ of the S. E. ¼, being fraction of five and six.

Q. Would you state now about fractions five and six, what kind of land they are, as to timber and so forth?

A. I count it worthless for timber. I looked it very close, because I wanted every piece I could get. Those were the instructions I received. There was not timber enough on it to pay for taking it at any price.

Q. What would you say that land was worth per acre?

A. I would not give a dollar an acre for it to-day, and have a deed,—not for timber purposes, and it would be of no value for anything else.

Q. Will you state what kind of timber there is on it?

A. There is what we call pitch pine and some Norways, a short scrubby pine which I did not consider of any value,—small scrubby stuff of no value for sawing purposes.

Q. State whether there is any good pine on it.

A. I did not see anything that I called good merchantable pine on it.

Q. Did you make a report of this to any one?

A. Yes, sir; I reported it to Ortman, as he wanted every piece on the lake that he could get,—State or school land.

CROSS-EXAMINATION OF JOSEPH LAWRENCE.

Cross-examined by Mr. Manager Huston:

Question. What kind of land is it?

Answer. Sandy land along the shore, and along the lake there is a strip, I think, fifteen rods wide that has hardly anything on it.

Q. The land is of no particular value?

A. I should not count it so.

Q. Whatever the land is worth, it is for timber if it has value at all?

A. I should count it so.

Q. You speak of Norway pine,—what do you mean by Norway pine?

A. That is the name of the pine,—we call it Norway.

Q. Is it not a fact that Norway pine is more valuable than any other kind of pine, where it is of such a character that it can be used, at the present time?

A. Good Norway pine is valuable.

Q. Is it not the most valuable pine, at the present day, we have?

A. Not considered so by our lumbermen. They prefer cork and timber pines,—the large class of white pine.

Q. Do you not know that, recently, white pine is being used for purposes that it had not been used for before, and that, at the present time, these small Norway pines are very valuable?

A. I do not know it. Large Norway is valuable, and has been.

Q. Is not the small valuable?

A. A small-size thrifty pine is nice; short, scrubby pine is accounted of no value.

Q. What other kind of pine is there on it, except Norway?

A. Nothing but this black pitch pine.

Q. That is of no value?

A. That is of no value that I know of.

Q. Did you make an estimate of the amount of Norway pine on these two fractions?

A. I did not count it worth estimating. It was not good merchantable timber.

Q. Did you go over the land to investigate that matter?

A. Yes, sir. I went over to ascertain, because I was interested. I got so much for every forty I could get.

Q. What part of the section did you say this was on?

A. The S. E. fraction of the S. E. ¼, being fractions 5 and 6, Sec. 16, 24 north, 3 west.

Q. What lake was that?

A. Higgins' Lake.

Q. Which side of the lake was it on?

A. On the east side.

Q. You have not got that plat here?

A. No.

Q. What was on the south side of the land?

A. The lake lies south of it, with the exception of a portion of about 60 rods on the S. E. ¼.

Q. How did these two lots lie as to the lake?

A. The lake cuts in about sixty rods west from the S. E. ¼ of section, and runs in a northwesterly direction through both the fractions.

Q. The lake runs through both the fractions?

A. Cutting off a portion of both fractions.

Q. When did you ascertain that fact?

A. Last spring, when I was there.

Q. Have you looked at the plat since you have been in town?

A. I have seen the plat.

Q. Have you been at the Land Office to look this matter up since you have been in town?

A. I will state first what I did.

Q. Have you been and examined it since you have been in town?

A. Yes, sir. I have looked at the plat.

Q. What did you look at it for?

A. I looked at it to decide a question about the land. I said it was sixty rods, before looking at the plat, from the lake to the section corner. Some one said it was not.

Q. Who said it was not?

A. I think it was a land-looker that was with me. He said he thought it was not quite so far. I said I should refer to the plat. We referred to the plat, and I was the nearest correct, as it was laid down on the plat. That was all I referred to it for.

Q. Do you know Mr. Goddard of Saginaw?

A. Yes, sir.

Q. What is his business?

A. Professional engineer. He is dealing some in lands now.

Q. Are you acquainted with Mr Alderman?

A. I know him.

Q. What is his business?

A. He is a surveyor and land-looker.

Q. He is dealing in pine lands, is he not?

A. I suppose he is. I know he is a surveyor and is looking lands a good deal; that is all I know about it.

Q. What part of the section was it that you looked at last June?

A. I looked the west fractional part of the N. W. ¼.

Q. Section 16?

A. Yes, sir.

Q. For whom?

A. Charles L. Ortman, the E. ½ of the N. E. ¼, and the S. E. ¼ of section 16.

Q. Did you apply to the Land Office for this land?

A. No, sir; I gave him the minutes and he located them.

Q Do you know whether he located them on quarter or full payments?

A. I do not know that.

Q. Do you know whether there was an affidavit made with reference to this land?

A. I do not.

Q. Do you not know anything about that?

A. No, sir. I know he located them; I saw it on the books; I did not see how they were located.

Q. Who was with you when you were looking at those lands?

A. A son of mine.

Q. Where is Higgins' Lake?

A. In the northern part of Michigan, town 24 north, range 3 west.

Q. How far from any settlement?

A. I do not know. I think there was a settlement off to the southwest, toward Muskegon. I could not tell the exact distance. It is a good ways east of any settlement.

Q. What stream do they run their pine out?

A. The Muskegon; it is at the head of Muskegon river.

Q. You did not estimate the timber?

A. I did not find anything worth estimating.

Q. Did you estimate it?

A. I looked the land for timber and I found no timber of any value; I looked it close.

Q. Did you say whether you estimated the timber or not?

A. I looked all the timber.

Q. You can say yes, or no, whether you estimated the timber?

A. Yes, sir; I estimated it.

Q. What amount did you find on it?

A. I believe I thought there might be, of very poor timber, 15,000 or 20,000 feet, but it was very poor, and scarce at that.

Q. Then you did make an estimate?

A. Yes, sir; I looked all the timber there was—a little strip on the north side,—a few scarce trees.

RE-EXAMINATION OF JOSEPH LAWRENCE.

Examined by Mr. Shipman:

Question. State whether you mapped this before looking at the official plats?

Answer. I did, and the reason why I referred to the plat was on account of the distance.

Q. State whether it was not I who sent you to get the plats?

A. Yes, sir; it was you who sent me to get the plats so as to see who was the nearest right on the distance, from the lake shore to the S. E. corner.

Q. How had you got it?

A. I got it nearest right. I said it was sixty rods, and some land-looker said it was not so far. You went or sent and got a plat, and I was nearest right.

Q. That was on the south side of the S. E. corner?

A. It was the south line of the section.

RE-CROSS-EXAMINATION OF JOSEPH LAWRENCE.

Examined by Mr. Manager Huston:

Question. Have you any memoranda by which you can fix the date when you were there?

Answer. No, sir; it was very near the first days of June. I am within three days of the correct time, too.

Q. You did not come to this office here with your report?

A. No, sir, I did not.

Q. Did you report to the Commissioner that there was no timber on that land?

A. No, sir.

Q. Did you report to Edmonds that there was any timber on that land last year?

A. No, sir, I never had any conversation with Edmonds until yesterday.

Q. To whom did you report?

A. Charles L. Ortman, East Saginaw.

TESTIMONY OF M. E. HITCHINGS.

M. E. Hitchings, a witness produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. Shipman:

Question. Where do you live?

Answer. Saginaw.

Q. How long have you lived there?

A. About seven years.

Q. Do you know Charles L. Ortman?

A. Yes, sir.

Q. Did you hear Lawrence testify just now?

A. Yes, sir.

Q. Do you remember looking those lands?

A. Yes, sir.

Q. Will you state how, when, and why you looked them?

A. I looked them about the last of last July. Mr. Ortman had had them looked by Mr. Lawrence, and Mr. Lawrence had located some in some sections, and left this piece out, and Ortman thought he would like to have this piece if there was any timber on it of any value, to go with the rest of the land; and so he thought probably Lawrence might be a little too particular, and he sent me on to look after him, to see if they were of any value.

Q. Have you been in that business before that?

A. Yes, sir.

Q. How long?

A. About nine years.

Q. What did you do with regard to looking this piece of land?

A. I went on and looked over the land.

Q. Did you go specially for that purpose?

A. No, sir, I was looking other land.

Q. State how carefully you looked, and what was the result?

A. First I went and found the meandering corner on the lake, and run it out to the S. E. corner of the section. From then I paced it 80 rods, as we always do, and then I paced off 160 rods west, and I didn't see timber of any value as pine land.

Q. Did you go all over the land?

A. I went very nearly all over. I had a man with me, and he would take a circle off from me as I was pacing through, to see if there was any timber on it or not.

Q. State whether there was or was not valuable timber on it?

A. I saw some small Norway and some small sapling pine, but I did not think there was enough of any value to take the land as pine land. I thought probably it would cut somewhere about 20,000. It was small Norway and sapling pine.

Q. On both pieces?

A. Yes, sir.

Q. What should you say the land was worth an acre?

A. For pine land I should not think it would be worth hardly anything. For farming land I should say it was not worth anything, because it was mostly all sandy. I could not say what it would be worth an acre.

Q. Did you report this to any one?

A. I reported this to Ortman?

CROSS-EXAMINATION OF M. E. HITCHINGS.

Cross-examined by Mr. Manager Huston:

Question. How long did you say you had been in the business of looking pine?

Answer. About nine years.

Q. In whose employ have you been?

A. I have been in almost everybody's employ; looking for different parties.

Q. Different parties in Saginaw?

A. Yes, sir.

Q. Name some of the parties.

A. I have looked for Mr. Ortman, Rust, Owen, King, Brockway, and several more parties. I have looked for parties in Detroit.

Q. How long have you been in Ortman's employ?

A. I have looked land for him off and on for the last two or three years.

Q. Who were you looking land for when you went up to Higgins' Lake?

A. I was looking land for myself, calculating to sell to Ortman.

Q. Were you in the employ of Ortman?

A. Yes, sir.

Q. How was it you were looking around for yourself?

A. I was looking land to sell to him.

Q. Did you sell minutes to any one else?

A. No, sir.

Q. About what time was it you were there?

A. About the last of July.

Q. Any one else with you?

Q. Yes, sir.

Q. Who?

A. A gentleman by the name of Larabee.

Q. Where does he live?

A. In Saginaw.

Q. Did you make any estimate of the timber,—count the trees?

A. I didn't make any estimate,—I didn't see anything to estimate.

Q. You didn't count the trees?

A. No, sir.

Q. I understood you to say you went 80 rods in one direction,—what direction was that?

A. North.

Q. Then you went 160 rods west?

A. Yes, sir.

Q. That is all the examination you made?

A. Yes, sir.

Q. Then all you know about it is what you learned by going 80 rods north and 160 rods west, and what Larabee reported to you?

A. Yes, sir; but in doing that you could see pretty nearly the whole lot.

Q. What kind of timber was there on that lot?

A. Small timber—this small jack-pine, as some people call it. Some few small scrubby black oak, and there might be some few soft maples, and a few small sappy Norways near the north end.

Q. Any small trees.

A. Yes, sir, some small undergrowth.

Q. What distance could you see in the woods?

A. Twenty rods.

Q. You say you are a professional land-looker.

A. Yes, sir.

Q. Have you not known in your experience that it will frequently occur that one man will look a piece of land and report that it is not valuable for timber, and afterwards another party look up the land and buy it for him, and actually get a large amount of pine that was not discovered by the first looker?

A. Yes, sir; I have heard of such occurrences.

Q. Does that not frequently occur?

A. I don't know; I never had it occur with me. I have heard of such occurrences.

Q. Have you not known of several hundred dollars worth of pine being on a few acres of land?

A. Yes, sir.

Q. Might not a man go across a piece of land as you did, and not discover any pine?

A. Not on such a piece as that.

Q. You didn't see the whole land?

A. I saw nearly the whole of it.

Q. Have you not frequently seen an 80 acres of land that was worth five or six hundred dollars for pine, and perhaps the pine be all on one corner, or a small part of the lot?

A. I don't know that I ever saw a lot that was worth as much as that, unless the person that went to find it could see it somewhere on the lot.

Q. Does not that frequently occur?

A. Such things might occur.

Q. The piece might be valuable for pine, and yet the greater part have no pine on it at all?

A. I do not think that possibly could be so.

Q. Answer my question. I say a piece of land might be valuable for the pine timber, and still the greater part of the piece not have any pine timber on it at all?

A. Yes, sir.

Q. You do not pretend to say that this pine which was on this land that you saw was not worth anything at all?

A. No, sir. I do not pretend to say that.

Q. There was some value in the timber?

A. Yes, sir.

Q. And the main value of that land, if it has any value at all, is for the timber that is on it. Is not that so?

A. I do not know. I would not consent to pay the tax on the land for it.

Q. Its chief value is for the timber upon it, is it not, if it has any value at all.

A. I don't know that it would be.

Q. Will you answer my question? Does not the chief value of the land consist in the timber that is growing upon it,—the oak, pine, and the various kinds of timber that are upon it, whether it is more or less.

A. The timber, I should not think, was of any value.

Q. Then the land is of no value in your judgment, at all?

A. I should not call it of any value.

Q. A moment ago you said the timber was of some value Was not the twenty feet he spoke of some value?

A. If it had been pine of any size.

Q. Then I understand you to say that the land is of no value at all?

A. I should not call it of any value to me, at all.

Q. That is not the question. You might not want it; but as a land-looker, I ask you to say whether it is of any value; as a man that claims to be a judge of pine lands.

A. It is of the value, I should think, of 20,000 feet of common, coarse timber.

Q. What would that 20,000 feet of common, coarse timber be worth, in your judgment?

A. Well, probably, it would be worth a dollar a thousand.

Q. That is all the value there is to the land?

A. I should think that was all the value of the land.

RE-EXAMINATION OF M. R. HITCHINGS.

Examined by Mr. Shipman:

Question. How were you to be paid?

Answer. I was to be paid by the lot.

Q. Explain that.

A. I was to have so much a lot, of each forty-acre lot of land which I would locate to Mr. Ortman.

Q. Suppose you did not locate the lot?

A. I was not to get any pay.

JOSEPH LAWRENCE, RECALLED.

Examined by Mr. Shipman:

Question. How were you to be paid for looking this land?

Answer. Paid by the forty-acre lot.

Q. On what conditions, or how?

A. Those I should have got ten dollars a piece for. For those two fractions, twenty dollars.

Q. When would you have got it?

A. Just as quick as located.

Q. If you did not locate the land, then what?

A. I did not get anything.

TESTIMONY OF LUCAS JOSEPH.

Lucas Joseph, a witness produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. Shipman.

Question. Where do you live?

Answer. Quincy, Mich.

Q. Branch county?

A. Yes, sir.

Q. How long have you lived there?

Q. Thirty-two years.

Q. What is your occupation?

A. A farmer. I raise some fruit trees,—I used to a good many, a few years ago.

Q. Are you acquainted with Mr. Edmonds?

A. Yes, sir.

Q. How long have you known him?

A. Some twenty-five years.

Q. You have met him since he has been the Commissioner, have you?

A. Yes, sir.

Q. Do you recollect the transaction with the Commissioner about a piece of land in Manistee?

A. Yes, sir.

Q. State the circumstances of that transaction?

A. I located a piece of land up there, five or six years ago, with College scrip. A little west of it was a white cedar swamp, and I was always anxious to get some of it for rail

timber,—mine was all hard,—and I met Edmonds, and asked if they were locating swamp land with scrip. He said they were. I told him I would like to have him make me out a plat. He said he would do so; and I saw a young man that was going up there, by the name of Golding,—up to Manistee,—and I got him to look over a section, or such a matter. He told me he would do it. He located it and marked it on my plat, and sent it back by mail, and I sent it to Mr. Edmonds. I did not want to come here, and I told him I wanted to locate such a piece. I wanted him to buy scrip; I saw in the *Post* that scrip was selling at so much; I wanted to locate it with scrip. He sent me the deed, and I wanted to know of him how much money I should send him, and, instead of that, he sent me the deed. He said he had entered it with his own money. He said he had run a little risk in doing so, but he would take his chances.

Q. Did you send the money?

A. Yes, sir.

Q. What was the amount?

A. Thirty-five dollars.

Q. Do you recollect the description?

A. The S. W. ¼ of S. W. ¼ of Sec. 29, T. 24 N., 13 W.

Q. Had Mr. Edmonds any interest in that land?

A. No, sir.

Q. Has he now?

A. No, sir.

By Mr. Manager Cochrane:

Question. I would like to inquire of the counsel for the respondent, whether that refers to any thing we have proven?

Mr. Shipman—It refers to Mr. Porter's testimony, page 138.

Mr. Manager Huston—That was in Monroe county.

Mr. Shipman—He said either Monroe or Branch. Mr. Edmonds entered one piece so. It is in Mr. Porter's testimony, page 138.

Mr. Manager Huston—Mr. Porter could not know that fact.

CROSS-EXAMINATION OF LUCAS JOSEPH.

Examined by Mr. Manager Cochrane:

Question. How long ago was this?

Answer. I did not look at the deed. It was dated May 30, 1871.

Q. You state that the Commissioner had no interest in this land prior to your purchase?

A. No, sir.

Q. How do you know that?

A. All I knew was what I told him. I wanted him to do that for me.

Q. You wanted him to enter the land and he so entered it?

A. Yes, sir.

Q. Then you do not know as a matter of fact whether he had any interest in it?

A. No, sir, he had no interest.

Q. Do you know as a matter of fact that he had no interest?

A. I think I do.

Q. How?

A. Why, he didn't charge me anything. I offered to pay him,—he did not ask me anything.

RE-EXAMINATION OF LUCAS JOSEPH.

Examined by Mr. Shipman:

Question. Did you get a patent?

Answer. Yes, sir.

TESTIMONY OF HON. V. P. COLLIER.

V. P. Collier, a witness produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. Shipman:

Question. Are you the State Treasurer?

Answer. Yes, sir.

Q. Have you known Mr. Edmonds, the Commissioner of the Land Office, during his official term, or about that?

A. Yes, sir.

Q. How frequently have you met him during that time?

A. With a few exceptions, I have met him every week.

Q. How often would you meet him officially, upon Boards?

A. The last week in every month; sometimes oftener,—some months oftener than that.

Q. State whether you have seen him at different times of day or evening?

A. Usually, one week in every month I have seen him from breakfast until, frequently, as late as eleven or half-past eleven o'clock at night, for three days in a week, perhaps.

Q. At other times state how and when you met him,—whether you have met him in and out of the Land Office.

A. I have met him at the office and at the hotel.

Q. State whether during that time anything occurred from which you suspected he had been drinking liquor?

A. I never noticed anything that would indicate it.

Q. Did you ever know him to drink any?

A. No, sir.

Q. Did you ever know him to refuse?

A. On one occasion I heard him asked to drink in the evening and he declined.

CROSS-EXAMINATION OF HON. V. P. COLLIER.

Cross-examined by Mr. Manager Cochrane:

Question. Are your visits here regular?

Answer. They are not regular, excepting the last week in the month, and then they are regular.

Q. You have a regular meeting of some Board of State officers?

A. Yes, sir. The reason of the meeting being the last Wednesday in the month, it was the regular meeting of the State Board.

Q. How often are you here at other times?

A. I am generally here once in each week.

Q. Is your appearance here, once in each week, generally periodical?

A. There is no stated time. I come here from advice,—or from the letters I receive in the office.

Q. How long do you stay here?

A. Sometimes one day, and sometimes two.

Q. How long have you been acquainted with Mr. Edmonds?

A. My first acquaintance with him was the first week in January, 1871.

Q. Have you ever seen him drink?

A. No, sir.

Q. But you have known him to refuse?

A. On one occasion I was present when he was asked to drink, and he declined.

Q. I don't know whether it is fair, but I will ask you whether you are much of a drinking man?

A. Well, I am not a hard drinker.

Q. Do you frequent places where drinks are procurable?

A. Not very much, sir.

Q. Do you know whether Mr. Edmonds does?

A. Not to my knowledge; I do not know that he does.

Q. Where have you always stopped here?

A. At the Lansing House.

Q. Not at the Chapman House?

A. No, sir; I never stopped there.

TESTIMONY OF JESSE CONKLING.

Jesse Conklin, a witness produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. Shipman:

Question. Do you know Mr. Edmonds, the Commissioner of the Land Office?

Answer. Yes, sir.

Q. Where do you live?

A. I live in Delhi, Ingham county.

Q. Where did you live a year ago this spring,—in April or May?

A. Here, in town, at the Chapman House.

Q. I suppose you have a recollection of the time when you were married?

A. Slightly; yes, sir.

Q. Do you remember the occasion of there being something going on there when you came home from your marriage trip?

A. I do.

Q. Were you in the bar-room there at the Chapman House at eleven o'clock that night?

A. Yes, sir.

Q. What time did you go down?

A. I think it was between seven and eight o'clock in the evening.

Q. How long were you there?

A. It was between ten and eleven when we closed up, I think.

Q. I want you to state what took place there, so far as you observed, with regard to drinking. Did you see Mr. Edmonds there?

A. I did.

Q. Now state.

A. Well, they got all they called for while I was there.

Mr. Manager Huston:

Question. How was that?

Answer. They all got all they called for while I was there, and maybe more.

Q. Who was there?

A. The room was full; I don't know as I could name them.

Q. Did you see Mr. Edmonds there?

A. Yes, sir.

Q. Did you see Baker there?

A. Yes, sir.

Q. Did you see Griswold there?

A. Yes, sir.

Q. State Mr. Edmonds' condition,—whether or not he was under the influence of liquor or drink,—anything of that kind?

A. I should say he was not.

Q. How late did you see him?

A. I saw him when he went up stairs. He took his light I think it was about half-past ten,—between ten and eleven.

Q. Anybody help him up stairs?

A. No, sir.

Q. Where did he go to when he went up stairs? For what purpose did he go up? State whether he was going to bed?

A. I suppose he was going to bed. He had his lamp and was going up the last pair of stairs. His room was at the head of the stairs, and when he got to the head of the stairs I closed my door, and went into my room; that is the last I saw of him.

Q. What did he do, if anything, while below in regard to the boys there,—the Land Office boys?

A. He was quieting those that were helping themselves a little too freely, as much as he could.

Q. What did he do?

A. He was getting them to go to their rooms, to go to bed. He was quite anxious—

Q. Quite anxious you should what?

A. Go out of the room, so he could get one young man that he had there to go to bed. He thought if I went he would.

Q. Was there anything said between him and the bar-tender about letting them have anything more to drink?

A. I think he forbid my bar-tender letting one man have anything more to drink. I have been informed that he did; I did not hear him. That was when—

Mr. Manager Huston—We submit that the witness should not be allowed to state that. We object to his testimony, what his bar-tender told him.

The Presiding Officer—That is not competent.

Mr. Shipman—The question, of course, is intended to be confined to his knowledge.

Question. Can you give the date of that transaction?

Answer. I could not be positive about it. I think it was the 24th,—would not be positive.

Q. 24th of what month?

A. April.

By the Presiding Officer:

Question. 1871?

Answer. Yes, sir.

Q. When did Mr. Edmonds come to the house to board?

A. Either in March or April, 1871.

Q. State how many months he was there in all?

A. I could not be positive without my books. I think about two months.

Q. During the time he was there, state whether you ever saw him under the influence of liquor.

A. I never did.

Q. You say you saw Mr. Baker there that night?

A. I did.

Q. See Mr. Straub there.

A. I don't know Mr. Straub, as I know of. I may know him and not know his name; I do a great many men.

Q. Did you see O. B. Quigley?

A. Yes, sir.

Q. Where was Quigley when Mr. Edmonds went up stairs?

A. I could not tell you,—he was not there. There were but one or two there.

CROSS-EXAMINATION OF JESSE B. CONKLING.

Cross-examined by Mr. Manager Cochrane:

Question. What time in the evening did you first see the Commissioner there that evening?

Answer. About seven o'clock.

Q. Whereabouts?

A. He came to my room.

Q. What time did you first see him?—you were not drinking in your room, were you?

A. No, sir.

Q. What did he come to your room for?

A. I suppose to give me a call. I had just come home.

Q. Did he ask you to go down to the bar?

A. Yes, sir; he asked me to go down stairs.

Q. What time did you and he go down stairs?

A. I didn't go down stairs with him.

Q. Did he go down first?

A. Yes, sir.

Q. What time did he go down stairs?

A. A little while after, I suppose. He was not in my room but a few minutes.

Q. You went between seven and eight, you say, and stayed there until between ten and eleven?

A. Yes, sir.

Q. When you went down, how many clerks were there, and what were they doing,—the Land Office clerks?

A. I could not tell you, sir.

Q. Were any of them there?

A. Yes, sir.

Q. Griswold there?

A. Yes, sir.

Q. Clarke there?

A. No, sir.

Q. Van Dunham there?

A. Yes, sir.

Q. Bowen?

A. Yes, sir.

Q. Any others that you recollect now of the clerks?

A. I could not say.

Q. Don't recollect any others there?

A. I could not call their names, I might recollect if they were named.

Q. What were they doing, when you went down, between seven and eight,—were they drinking?

A. No, sir.

Q. What were they doing?

A. They was rather expecting me, I suppose.

Q. Waiting for the victim. Well, when did the sacrifice commence? What time did the drinking commence?

A. I did not keep them waiting long.

Q. You were doing the treating, I suppose?

A. Yes, sir.

Q. You must have commenced about eight o'clock, you think?

A. Yes, sir; between seven and eight.

Q. Was Mr. Edmonds down there so as to be in at the commencement?

A. I think he was there.

Q. Did Mr. Edmonds commence with the rest of you, drinking?

A. I could not say.

Q. You recollect his refusing?

A. There was quite a crowd there, you know.

Q. Do you recollect of his refusing?

A. Yes, sir.

Q. When? In the early part of the evening, or subsequently?

A. I don't know as I could say when.

Q. Do you think it was in the early part of the evening, or subsequently?

A. I could not tell you.

Q. You stated that all of the gentlemen there present got what they called for; that is, as much as they called for, I suppose you intended.

A. Yes, sir.

Q. You drank only champagne?

A. Oh, yes, sir; drank anything they wanted.

Q. I had understood, from you or others, that there was only champagne drank that night. Did you drink other liquors?

A. Yes, sir; they took their choice.

Q. How long after you arrived there, and the drinking commenced, before these boys became noisy,—these clerks?

A. I think about twenty minutes.

Q. Was that on account of the potency of the liquor, or of the number of drinks taken within that time?

A. I could not tell you. I presume they felt glad to see me.

Q. Were they very noisy in twenty minutes?

A. I could not tell you just how noisy they were. They did not annoy me very much.

Q. Are your friends who are glad to see you generally noisy? Is that the way you are generally received by your friends, who are glad to see you?

A. Depends upon who they are, and what they are rejoicing about, somewhat.

Q. You remarked that the Commissioner was not intoxicated, in your opinion?

A. I do.

Q. Do you know how much he drank that night?

A. No, sir.

Q. Was there anybody there who staggered that night?

A. I think there was.

Q. Any of the clerks in the office?

A. I should not wonder if they were a little once in a while.

Q. Did not care so much about the length of the road as the breadth, I suppose? Was the Commissioner in that condition?

A. He was not.

Q. Was he noisy?

A. No, sir.

Q. Was he pulling any one around, inviting them up to drink?

A. No, sir.

Q. Do you know that he was not?

A. I don't think he was; I think I should have seen it.

Q. Did it take from eight o'clock until between ten and eleven for the Commissioner to quiet those clerks?

A. They did not need quieting all the time from eight to ten?

Q. Did he succeed in quieting them any time?

A. He got a number of them to their rooms, and some besides clerks.

Q. Which of his clerks did he get to their rooms before ten o'clock?

A. I could not tell you.

Q. Did he get any of them there?

A. I do not know whether he did or not, more than to get them out into the hall. I staid inside.

Q. Did they stay out?

A. Sometimes they did and sometimes they did not.

The Presiding Officer—The Senator from the Twenty-seventh (Mr. Wheeler) sends the following question:

"How many of those clerks boarded at your place at that time?"

Answer. I think there were five or six,—I am not positive.

Q. Were they all there that evening?

A. I guess they were.

Q. You have mentioned four;—were all these boarders at your place,—Griswold and Clark——

A. Clarke was not a boarder there.

Q. He was an extra one?

A. He was not there.

Q. When you retired that night had the drinking ceased?

A. There was no one in the room but Mr. Edmonds and Mr. Dunham, and the bar-tender, when I went out of the room.

Q. Mr. Dunham still held out, did he?

A. Yes, sir, he is elastic.

Q. Was Mr. Edmonds drinking after those clerks went off?

A. No, sir.

Q. How was your condition that night?

A. I was able to be around; nobody carried me up-stairs.

Q. Were you pretty full that night?

A. Not as full as I have been in my time.

Q. Were you in such a condition as to be perfectly cognizant and observant of what transpired?

A. I was.

Q. And you have a good recollection at the present time?

A. Yes, sir.

Q. From what you saw there that night, was the Commissioner under the influence of liquor, particularly, or so as to be noticeable?

A. No, sir.

Q. You have no idea how much he drank?

A. No, sir.

Q. Was he what you would term a sober man at eleven o'clock?

A. Yes, sir.

Q. Perfectly straight?

A. Perfectly straight.

Q. Did he retire before you did?

A. I went out of the room as he requested. His room was on the same floor as mine, and I went up and stood at the head of the stairs until he came up the last stairs, and then I opened my door and went in. I did not see him go into his room. I just saw him go to the head of the stairs. His room was right at the head of the stairs. And that was the last I saw of him.

Q. Who went up stairs with him, if anybody?

A. Nobody.

Q. I do not mean who carried him up stairs, but who went up in company with him?

A. He was alone.

Q. Was that before or after you went up?

A. That was just after. I stood at the back side of the head of the stairs and he was coming up the front side.

Q. Were you waiting for him?

A. I was waiting to see the closing up.

Q. Did the disappearance of Mr. Edmonds close up the drinking,—the arrangement that evening, whatever it was?

A. It was closed up long before he went.

Q. How was Mr. Edmonds coming up stairs to close up the matter?

A. Because he was trying to get Mr. Van Dunham to bed.

Q. Did Mr. Van Dunham go along with Mr. Edmonds?

A. No, sir.

Q. Do you know how long he stayed?

A. No, sir; he did not stay in the bar-room.

Q. Do you know where he went?

A. No, sir.

Q. Did he go up stairs with you?

A. No, sir.

Q. Did he board there at that time?

A. He did.

Q. You stated that these boys were making considerable noise. What kind of a noise was it—singing, and such noise as drunken persons generally make?

A. It was various,—they were having a good time.

Q. After the first noise and rejoicing at your return were over,—what kind of a noise was that?

A. I don't know that I could tell you what kind of a noise it was.

Q. Did this noise of rejoicing at your return continue until ten o'clock?

A. It was pretty well got along with before ten o'clock.

Q. Did you say they were singing there that night?

A. Yes, sir.

Q. Mr. Edmonds participate in those services?

A. No, sir; I did not hear him sing.

Q. I believe you answered that you did not see him pulling any one around, did you?

A. I saw him have hold of a number of his clerks, trying to get them to go to their rooms. I do not know whether you would call it pulling around or dragging around. That was his business for the last couple of hours.

Q. Did you see him pulling any one up to the bar or elsewhere to get a drink?

A. No, sir. They did not need it.

Q. Do I understand you that you arrived at the Chapman House between seven and eight,—that that was your first appearance?

A. No, sir.

Q. What time did you get back there?

A. I think about six.

Q. That same evening?

A. Yes, sir.

Q. Were you at supper that evening at the Chapman House?

A. I think I was. I know I was there.

Q. What was the condition of Van Dunham?

A. He was pretty drunk.

Q. And of Griswold?

A. He was rather jubilant.

Q. Was he drunk?

A. I should call it so if I was in such a shape.

Q. How was Bowen?

A. He was straight.

Q. He was not drunk?

A. I do not think he was.

Q. Was he singing?

A. No, sir.

Q. Dancing?

A. No, sir.

Q. Noisy in any way?

A. Not that I remember of. I do not think he was.

Q. How did his conduct differ from Mr. Dunham's?

A. I should think the answer would show. He was quiet, and Van Dunham was not.

Q. Van Dunham was not quiet?

A. No, sir.

Q. Who was doing the dancing there that night?

A. I don't know that I could tell you. There were a number of them stepping around pretty lively.

Q. Tell us some?

A. I do not know that I could call any names. Some of them were spatting and others dancing, and having various kinds of sport.

RE-EXAMINATION OF JESSE B. CONKLING,

Examined by Mr. Shipman:

Question. Did you see Thomas Marshall there?

Answer. I do not think I saw him there. I don't think he was in the room, unless it was very early; I don't think he was in the room at all.

Q. Who was there that did not belong in the house?

A. I could not answer you. The room was full.

Q. Those who were not guests of the house,—were there any there? If so, state who?

A. Yes, sir; the room was full.

RE-CROSS-EXAMINATION OF JESSE B. CONKLING.

Re-cross-examined by Mr. Manager Cochrane:

Question. What was the Commissioner doing to get the boys quiet, and how did he go to work to keep them quiet? Simply getting them to go to their rooms? Was that the attempt?

A. Yes, sir; that was what he was trying to do.

Q. But he did not succeed?

A. That was later in the evening. In the forepart he was rather keeping them quiet; when it got later he was trying to get them to go to their rooms.

Q. Did not succeed very well, as I understand you?

A. Not very well.

TESTIMONY OF GOTTLIEB STRAUB.

Gottlieb Straub, a witness, produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. Shipman:

Question. Do you remember, in April, a year ago, being at the Chapman House when there was some little fun there?

Answer. Yes, sir.

Q. State, at that time, whether you were an officer in this city.

A. I was a police officer.

Q. State what time you went there.

A. I went there at eleven o'clock,—a little after eleven.

Q. Did you go in the bar-room?

A. My first step was right in the muddle there.

Q. What did you see there?

A. When I came in the door, there was the stairs, going up. The first I saw was Edmonds, on the top of the stairs, with a light in his hand.

Q. Anybody carrying him?

A. Not one was with him.

Q. Was he holding up anything, or anything holding him up?

A. No.

Q. Where did you go from there?

A. I suppose I went along up to his room.

Q. What did you do?

A. I went into the bar-room, and I told Hotaling he must stop selling his drinks, or I should make a complaint. It was after the time fixed by the ordinance to close up.

Q. Was James H. Baker there?

A. I saw Mr. Baker in the billiard-room.

Q. What was he doing there?

A. Playing billiards.

Q. Won't you state his condition?

A. I thought he felt pretty good.

Q. State whether he was intoxicated?

A. Well, I should judge so. I thought he had a little too much in. He would not play billiards after the time, according to the ordinance.

Q. Did you have any talk with Baker there?

A. I did not say much to Baker. I spoke to Mr. Hotaling, that he must close up, and Mr. Hotaling told me "the deputy sheriff is in the other room and it will be all right." I said

"I have nothing to do with Baker, my orders are that every saloon or tavern has got to be shut up," and he wanted to know if I would not go and take a drink of champaigne. I said "That will just sell me; you will never catch me in my life."

Q. Did you have any conversation with Baker there?

A. After I went out of the bar-room into the other room, we had more or less talk about a certain man that I saw in the room, and I saw he had a pin like I had, and I thought I would get him to bed.

Q. Who was that?

A. Mr. Griswold.

Q. What was the pin?

A. Three links.

Q. Did you have any conversation with him?

A. I spoke to Griswold, and Baker stepped up and said "I know my business, you let that man go." I said "I wanted to get that man to go to bed if he boards in this house. If not, I will take the law." Says he, "I know my business, I have been here all the evening. They have had a jolly good old time."

CROSS-EXAMINATION OF GOTLIEB STRAUB.

Cross-examined by Mr. Manager Cochrane:

Question. Had you any other business at that time, besides being a police officer?

Answer. I had not.

Q. What was your business prior to that time?

A. I was city sexton of Lansing.

Q. What has been your business, since?

A. Since that time, I have been working for the city,—building sidewalks, crosswalks, culverts, and so on.

Q. Any other business?

A. No, sir.

Q. You went into that place about eleven o'clock?

A. Yes, sir.

Q. Had you been there before, that evening?

A. No, sir.

Q. Been in the neighborhood?

A. No, sir.

Q. Was there any noise?

A. That is what attracted my attention.

Q. Whom did you see there,—below?

A. I could not really mention, because I was not really acquainted with all of them, but afterwards learned them. I stepped into the door and told Hotaling that he must shut the shop, because it was time to shut up, and every other one of them was shut up; and he said, "Jim Baker is in the other room, and he is all right."

Q. I ask you whom you saw there that you knew then, or afterwards knew were there?

A. Mr. Hotaling, Mr. Griswold, Mr. Baker, and I believe, if I am not mistaken, Van Dunham.

Q. How many more, should you say?

A. Probably about two more besides them.

Q. The others you do not know?

A. No.

Q. You saw Edmonds at the top of the stairs?

A. Yes, sir.

Q. Who was with him?

A. Nobody.

Q. Did you see him going up stairs?

A. No, sir; I saw him standing on the top of the stairs, and, as I came in through the door, he turned around and looked at us going in the door.

Q. Was he talking with anybody?

A. No.

Q. How long did you see him there?

A. I saw him there, probably, a half a minute before I went into the other room.

Q. Did you see Mr. Conkling?

A. No.

Q. He was not going up stairs then, was he?

A. No.

Q. Was Conkling at the head of the stairs?

A. I did not see him.

Q. Where was Edmonds standing, with reference to the stairs?

A. I do not know whether he was on the last step of the stairs.

Q. Was he going up when you saw him, or was he standing there?

A. He was about turning to look to see who was going in.

Q. Conkling, did you say, was going up?

A. I did not see him.

Q. Did you see Mr. Conkling at all that night?

A. No.

Q. Did you go right into the bar-room?

A. I did.

Q. You saw who were there?

A. Yes, sir.

Q. Did you step into the billiard-room?

A. Yes, sir.

Q. Did you see who was there?

A. Yes, sir.

Q. How long did you see Baker that night in the billiard-room?

A. I presume it was half an hour before the thing was all straightened, and they got them all to bed.

Q. Baker was in there during the half hour?

A. Yes, sir.

Q. Was he most of the time playing billiards?

A. Most of the time.

Q. Have you ever seen him play billiards before?

A. Yes, sir.

Q. Is he a good player?

A. I do not know. I am not a player myself.

Q. How did he play that evening, a good game or an ordinary game?

A. I do not know much about it.

Q. You say, you think he was pretty full. What makes you think so?

A. Because I have known him sixteen years, and I generally know by his countenance.

Q. How was his countenance?

A. He felt pretty good and lively. He said he was an officer and we needn't be alarmed about the thing.

Q. Have you ever talked with him about this matter?

A. Not a word.

Q. When did you mention this matter first about seeing him there?

A. I didn't mention it to any one that I know of.

Q. How did these gentlemen on the other side get a hold of it, then?

A. I could not tell you.

Q. Did you not tell somebody that you saw Baker playing billiards there?

A. No.

Q. Did these gentlemen from the bar-room go into the billiard-room with you?

A. Not any.

Q. Did they come in while you were there?

A. Part of them were in the billiard-room and part of them in the bar-room, all the while.

Q. Did the gentlemen who were in the bar-room come into the billiard room while you were there?

A. Yes, sir.

Q. You never mentioned this fact before to any one?

A. No.

Q. This is the first time you have ever spoken of it?

A. This is the first time.

Q. Do you know why you came to be subpœnaed or why you were called here?

A. I do not.

Q. You say Baker's countenance was a little different from what it had been the sixteen years you had known him?

Q. Yes, sir.

Q. Flushed?

A. He was pretty lively.

Q. His countenance I am speaking of?

A. I thought he was a little more excited than usual.

Q. How was Griswold? Was he in good condition?

A. He was pretty lively. I wanted to get him to bed as soon as I could.

Q. Were you going to arrest Griswold.

A. If he had not been boarding there, I believe I should have done it. I generally do.

Q. Does your ordinance require that billiard places should be closed by ten o'clock.

A. Yes, sir.

Q. As well as saloons?

A. Yes, sir.

Q. All amusements of that kind,—all saloons?

A. Yes, sir.

Q. Where there is nothing but a billiard-table, it is not a saloon?

A. They generally have a bar with them.

Q. I understood you to say that this was in a different room.

A. Yes, sir.

Q. How was the billiard-room located, with reference to the bar-room,—across the hall?

A. Across the hall.

Q. By the ordinance of this city, as you understand it, has not a man a right to play billiards all night if he chooses?

A. No, sir.

Q. I do not wonder that this place does not grow faster, if

liberty is restricted to that extent. You thought of arresting him because he was playing billiards there,—he was not drunk?

A. I would not arrest him unless he was drunk.

Q. Why did you not arrest Baker?

A. I thought he was deputy sheriff and he knew his business. He told me he was there all the evening.

Q. Is it your idea of justice to arrest a man that does not know his own business, and let those off who do know their own business?

A. I was under the direction of the marshal, and I had to go according to his orders.

Q. The marshal had not ordered you to arrest any member of the police force? I understand, probably, how that is. You told Hotaling he must close up?

A. Yes, sir.

Q. Close up his bar?

A. And close up his house.

Q. Do you make a man close up his hotel, too?

A. If he keeps open the bar.

Q. Suppose he shuts his bar?

A. Of course, I would not close up the hotel.

Q. He may keep open his outside doors?

A. If he keeps a hotel, of course.

Q. What answer did Baker make to you when you proposed to arrest Griswold?

A. He said he was there all the evening, and he knew his business, and it would be all right.

Q. Said who had been there all the evening,—Baker, or Griswold?

A. Baker said he had.

Q. How long did you stay there?

A. I should judge about a half an hour; until the bar closed; I made them shut it up. I told them I would make a complaint to-morrow, if they did not do it.

Q. You staid there until the billiard-saloon closed up?

A. I did not, sir.

Q. You left Baker and Griswold there?

A. Griswold went to bed before I left.

Q. Where did you and Baker go then?

A. Baker stayed there in the billiard-room.

Q. Who was with him?

A. A stranger. I could not tell who.

Q. What were they doing?

A. Playing billiards.

Q. Baker and this stranger?

Q. Yes, sir.

Q. Had you been drinking any that night?

A. No, sir.

Q. Are you a drinking man?

A. I drink once in a while something. I happened to be at the lodge that night, and I happened to walk along past there.

RE-EXAMINATION OF GOTTLIEB STRAUB.

Examined by Mr. Shipman:

Question. Did you hear Mr. Edmonds say anything, and if so, what?

Answer. I heard some voice, but I would not say positively it was Edmonds or Mr.—I do not know his name, I know him by sight. He said: "Boys, it is time for all of you to go to bed. It would not look well, and Mr. Edmonds wants you to go to bed." Something of that kind or other, at the time I went into the hall.

RE-CROSS-EXAMINATION OF GOTTLIEB STRAUB.

Examined by Mr. Manager Cochrane:

Question. From what source did that voice come? Where was the voice?

Answer. That is a thing that is a kind of mystery to me, for there were three doors open up-stairs, to the right and left.

Q. Who was in the bar room there?

A. Mr. Hotaling and his clerk.

Q. Anybody else there?

A. Mr. Griswold, and one or two others.

Q. Do you know Mr. Hotaling?

A. Yes, sir.

Q. Do you know his voice?

A. Yes, sir.

Q. Was it his voice?

A. No, sir.

Q. Do you know the bar-keeper?

A. It was not his; but I think, if I could see the man, I could tell pretty near the voice.

Q. Did you see the man that made that remark?

A. I would not be positive.

Q. What makes you think, that if you saw the man that had that voice, you could tell him?

A. Because I don't know his name. If I knew his name at the present time I could tell.

Q. You say it was a mysterious voice. I want to get at, how this voice which you heard from a man you did not see, would enable you to tell who he is before you heard his name. Was it Mr. Conkling?

A. No, sir.

Q. Was it Mr. Edmonds?

A. No, sir.

Q. Was it Baker?

A. No, sir.

Q. It was not this stranger?

A. No, sir.

Q. When were you subpoenaed in this case?

A. I was subpœaned this noon.

Q. Who subpœnaed you?

A. Mr.—[hesitating.]

Q. One of the Sergeants-at-Arms?

A. Somebody.

Q. Who have you talked with since you were subpœnaed?

A. I have not talked with anybody that I know of.

Q. Not since you were subpœnaed?

A. No, sir,

Q. Not a word?

A. No, sir.

Q. Had you talked before about any of these occurrences to anybody?

A. Not at all.

Q. Never a word?

A. No, sir.

Q. Or never a word since?

A. No, sir.

TESTIMONY OF HENRY N. LAWRENCE.

Henry N. Lawrence, a witness produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. McGowan:

Question. Where do you reside?

Answer. In this city.

Q. How long have you resided here?

A. I came here a year ago this month in my present employment. I moved here last September.

Q. What is your business?

A. Clerk in the Insurance Bureau.

Q. Where did you reside previous to coming to Lansing?

A Coldwater, Branch county.

Q. How long did you reside in Branch county?

A. I have resided in Branch from the year 1837.

Q. How long had you lived in Coldwater?

A. I moved to Coldwater in January, 1863.

Q. Are you acquainted with the respondent, Mr. Edmonds?

A. Yes, sir.

Q. How long have you been acquainted with him?

A. I think my first acquaintance with him was the commencement of his official term as register, in 1869.

Q. What was your business at that time?

A. I was county clerk.

Q. Where was your office, with reference to his?

A. My office was in the southeast corner room, on the ground floor of the court-house, and his was the southwest.

Q. They were adjoining offices?

A. Yes, sir.

Q. How long were you county clerk, while he was register?

A. Two years; the last two years of my term, and the first two of his.

Q. How frequently did you meet him during that time?

A. I saw him almost every day; that is, every week day.

Q. Did Mr. Edmonds serve as county register after you ceased as clerk?

A. Yes, sir.

Q. How long?

A. Two years.

Q. During that two years where were you, and what were you doing?

A. I was living in Coldwater a part of that time. I wrote in his office a little.

Q. Were you, a part of that time, deputy county clerk, or did you spend a part of your time in his office?

A. I worked a part of the time in the clerk's office. I think I was Mr. Edmonds' deputy, but I can't say.

Q. How frequently did you meet Mr. Edmonds during the last two years of that time?

A. I can't say how frequently. I was at the court-house occasionally. I saw him as often as once a week, or more.

Q. A part of the time you worked in his office.

A. Yes, sir.

Q. For him?

A. Yes, sir.

Q. Since you came here has Mr. Edmonds been here?

A. Yes, sir.

Q. You stated your family did not come here at the same time you did?

A. No, sir.

Q. In going back and forth between here and Coldwater, did you at any time meet with Edmonds?

A. Yes, sir. I did.

Q. How frequently?

A. I went home from here the first of June; I had been here one month in the employ of the Commissioner.

Q. About how frequently did you go back and forth together, if more than once?

A. I think we did two or three times?

Q And you met him frequently here, did you?

A. Yes, sir.

Q. Will you state whether you have ever seen Mr. Edmonds when you had reason to believe he was under the influence of intoxicating drinks?

Mr. Manager Cochrane objected to the question and it was withdrawn.

TESTIMONY OF GEORGE B. GRISWOLD.

George B. Griswold, a witness produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. McGowan;

Question. Were you present at the Chapman House on the occasion spoken of by the witnesses that you have heard testify?

Answer. Yes sir.

Q. State whether Mr. Baker was there.

A. He was.

Q. Did you see any body play billiards there that night?

A. Yes, sir.

Q. Who?

A. I played a game with Mr. Baker that evening,—a part of a game.

Q. Was there any spatting and dancing there?

A. There was some; yes, sir.

Q. State whether Mr. Baker engaged in that or not.

A. I saw him spatting for one or two to dance a jig, and I saw him try to.

Q. What was the result of your game of billiards?

A. We went into the billiard-room to play the game, and they were having a pretty good time out in the other room, and Mr. Baker, and, perhaps, myself also, was—well, we wasn't very much interested in the game.

Q. What became of the game?

A. We dropped it when we got it played about half out. We could not make a shot.

Q. Did you have any talk with Baker about playing billiards before you went in?

A. He asked me to play a game with him. The first I saw of him he came to the bar and wanted to touch glasses with me. I consented.

Q. And you drank together there?

A. Yes, sir.

Q. What was the talk about the billiards?

A. He asked me to go in and play a game with him; wanted to know if I didn't want to go. I told him I would, and we went in together and commenced to play the game, and it resulted as I have told you.

Q. Did you have any talk with him there about quitting the game,—if so, what was it?

A. He proposed that we stop playing that. There was more fun in the other room, he said, and there was n't any probability that we would finish the game that night, if we kept on at the present rate.

Q. Do you recollect any talk with Baker that night, about arresting parties? If so, what was it?

A. Yes, sir; I asked Mr. Baker; just before we went in,—just as we were going in,—if it wasn't a little strange he should be there?—he was the deputy sheriff. Well, he said, he was a little "on it" that night, and I asked him if he

hadn't better arrest three or four of us. No, he said, he wasn't in a condition for arresting people that night; he guessed he wouldn't arrest anybody.

Q. Were you ever at Alice McCabe's with the Commissioner?

A. Never in the world.

Q. Did you ever go there with him?

A. Never; never saw him there.

Q. Did you ever come away from there with him?

A. Never.

Mr. McGowan—Take the witness,—we shall ask to recall him on other matters.

The Presiding Officer—You can reserve that privilege.

Mr. Manager Cochrane—I will ask Mr. Straub a question?

GOTTLIEB STRAUB, RECALLED.

Examined by Mr. Manager Cochrane:

Question. Can you give the date of this occurrence at the Chapman House?

Answer. I could not, sir.

Q. Can you give the season of the year?

A. I think it was in April.

Q. What made you think it was in April?

A. Because my time has expired by the first of May. I know it was during that time.

Q. How much before?

A. I think it must have been three weeks before the year was out.

Q. Your time expired on the first of May?

A. Yes, sir; as near as I can recollect.

CROSS-EXAMINATION OF GEORGE B. GRISWOLD.

Cross-examined by Mr. Manager Cochrane:

Question. What time was this when Mr. Baker came in?

Answer. I could not say the exact time; I should have to tell you what I think.

Q. According to your impression?

A. I should say it was as early as nine o'clock.

Q. How long had you been drinking?

A. Well, we was there—

Q. When did you begin,—what time?

A. When he first came in we hadn't been drinking a great while.

Q. That was about three hours after supper. How much between supper and that time had you drank?

A. I didn't commence to imbibe until half-past eight, I should think, perhaps,—I couldn't say.

Q. Had you taken any before supper?

A. No, sir.

Q. None at all?

A. I can't remember distinctly; I never do. I don't presume I did that night.

Q. Between half-past eight and nine o'clock, how many times did you drink?

A. One or two drinks of champagne.

Q. One or two only?

A. Yes, sir.

Q. Was it champagne only?

A. Yes, sir.

Q. Did you drink anything else that evening?

A. No, sir, I did not.

Q. What time was it when this game of billiards commenced?

A. It was some time after Mr. Baker came into the hotel. I should think perhaps half-past nine o'clock.

A. About half-past nine when it commenced?

A. I cannot recollect the time,—I estimate it.

Q. How do you estimate it?

A. From the best of my recollection.

Q. Do you estimate it from the number of drinks you took in? What is the basis of your estimation? You speak of estimation,—not particularly recollection, but estimation. Why do you think it was half-past nine?

A. I think it was about half past eight when I came in.

Q. Baker came, then, at nine?

A. Baker came there shortly after, and shortly after he came in we commenced playing billiards.

Q. At half-past nine you commenced playing billiards.

A. I should say it was half-past nine or ten.

Q. How many games did you play that night with Baker.

A. We didn't play one.

Q. You commenced at half past nine,—how long did that last?

A. It lasted some time.

Q. How long?

A. I could not tell you.

Q. An hour?

A. I don't think it did.

Q. How many points did you make?

A. I don't remember.

Q. Got about half through, did you?

A. I should presume we did; I think so.

Q. Did you make points very fast?

A. No, sir.

Q. Was it a carom or a pocket table?

A. A carom table, I think.

Q. You made some shots, did you?

A. We did, with difficulty.

Q. Do you recollect who was ahead that night when you stopped?

A. No. I should presume I was. I always do beat him.

Q. Would the amount of drinks that you had taken make any difference in your facility in playing?

A. Yes, sir, it did, that night.

Q. Suppose you were a good deal more full than he, might he not beat you?

A. I know that he did not.

The Presiding Officer—It is now four o'clock. The Senate, sitting as a Court of Impeachment, is now adjourned until to-morrow morning at nine o'clock.

Lansing, Thursday, A. M., May 16, 1872.

The Senate met and was called to order by the President *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

Senator Putman asked leave of absence for Senator Prutzman for the day, which was granted.

The Presiding Officer—When the Senate adjourned last evening, the cross-examination of the witness Griswold was pending. The Honorable Managers will proceed with the cross-examination.

Mr. Manager Cochrane—Mr. President, the counsel for the respondent propose to examine Mr. Griswold on some further topics at this present time, so as to save calling the witness hereafter. I will therefore suspend further cross-examination for the present.

The Presiding Officer—The counsel for the respondent will proceed with the examination in chief.

RE-EXAMINATION OF GEORGE B. GRISWOLD.

Re-examined by Mr. McGowan:

Question. What is your business in the office now?

Answer. I am waiting on customers now.

Q. What has been your business previous to waiting on customers?

A. Occupying the draughtsman's chair.

Q. How long had you been acting as draughtsman?

A. Two or three weeks.

Q. Previous to acting as draughtsman, what was your employment?

A. I had charge of the field-note department.

Q. Tell us what you mean by the field-note department?

A. I mean, in the office are filed the old original government surveys, and the field-notes of the surveyors in each township in the State, and before these field-notes were transferred from the Surveyor General's office to the Land Office there was a

portion of the State had been copied,—of the Upper Peninsula and a part of the Lower Peninsula. All these small parcels and small fragments were scattered through different books, and they were copied and put into one book, and the field-note department has taken that up and completed it; and there are also orders received in the office of county surveyors and individuals for these field-notes to be used by the parties, and the field-note department is doing all that.

Q. Will you state in what condition these old books containing the field-notes of the original survey are now?

A. They are in a very bad condition of course;—they are the old notes taken in the field by the surveyors; a subdivision would be in one book, a township line in another, and another township line in another, and perhaps the survey of one township would be scattered through three or four books, and a great many of them had become partially destroyed.

Q. Are those some of the field-notes there?

A. Yes, sir.

Q. Those small books on the top?

A. Yes, sir.

Q. You say this work had been commenced by the Surveyor General?

A. Yes, sir; the largest portion of them had been copied when the Surveyor General's office found the field-notes.

Q. Do you know how long ago it was that this work was suspended?

A. I do not know exactly,—between fifteen and twenty years ago. It has been carried on to a certain extent through the business of the office,—has had some done along, a little at a time.

Q. In what kind of books are you writing up field-notes that you get from those little books?

A. We take these little books, and take a township, and search through the small books and get the subdivisions and town lots, and copy into the large book, and these are in their proper order.

Q. That is one of the books?

A. Yes, sir.

Q. How many are there at work upon the field-notes in the office?

A. Generally four or five; has been for the last year about four writing, and one to search through the books and arrange them in proper order.

Q. How many worked at that business previous to Mr. Edmonds' administration?

A. When I came into the office there were from three to five that worked part of the time; perhaps some of the time there would not be but two,—from two to five.

Q. Can you give us some idea of the amount of work done during the last year of the former administration and the first year of the present administration in that department?

A. Yes, sir; it is very easy to tell.

Q. Please do so.

A. In the year 1870 there was written up, for office records, twenty-six or twenty-seven towns. I mean for transferring these small books into the larger books.

Q. Put them into that permanent form for the office?

A. Yes, sir. I do not include the orders that were received in the office.

Q. What was done in the year 1871 in writing up for the office records?

A. There were about 127 towns written.

Q. About 100 more towns written in 1871 than in 1870?

A. Yes, sir.

Q. Can you give us an estimate of the work done for outside parties in that department for those two years?

A. I cannot give it as accurately as I can the office records. I have gone through with the report of the Board of Auditors, in which is mentioned the account of W. S. George. Each account was bound. I find that in the year 1870 there was about forty-five or fifty towns written, and in 1871 between eighty and ninety.

Q. You say you have been acting as draughtsman part of the time?

A. Part of the time; yes, sir.

Q. Do you know that there are certain books in the office called "abstract-books," on which clerks are to work now?

A. I do.

Q. Will you state whether or not those books are of any value to the draughtsman, in facilitating his business, and if so, how?

A. They are of great value. In receiving orders, as we do a great many times from land men, to make plats with the names of the purchaser of each description, with the date of entry marked upon the plat, previous to making those plat abstract-books, we would have to go to four or five sales-books, —as many sales-books as there were different kinds of land,— and search them through, find the number and name. Now each township is arranged in system, with the history of each forty in order, so that by taking one of those books we have it all before us on one page or two pages.

Q. Can you give us some idea of the difference in time in making plats where you have the use of the abstract-books, and where you do not use them?

A. In making these particular kind of plats?

Q. Yes.

A. A man could do as much in one day now as he could in four before. I think that would be a fair estimate.

Q. About how many books would you have to look through in order to make that kind of plat, previous to the abstracts being made?

A. There would be the Agricultural College sales-book, Primary School sales-book, Swamp Land sales-book, Licensed Land sales-book, Patent Book, University sales-book, Salt Spring sales-book, Normal School sales-book, and one or two others.

Q. From six to nine books, as the case required.

A. Yes, sir.

CROSS-EXAMINATION OF GEORGE B. GRISWOLD.

Cross-examined by Mr. Manager Cochrane:

Question. At the close of the session, last evening, you stated that you were playing billiards, and you closed the game on account of the inability of you and Baker?

Answer. I believe I did.

Q. This was about ten o'clock, you stated?

A. I think that it was about ten o'clock.

Q. Where did you go after that?

A. Went back into the bar-room.

Q. Were the persons there that had been there before you went into the billiard-room,—the same persons generally,—the same crowd?

A. It was diminished, somewhat.

Q. How long did you stay there, after that?

A. I could not say.

Q. Where did you go after leaving the bar-room?

A. I think Mr. Danham and I stopped and took a ride. I do not know what time it was.

Q. After ten o'clock?

A. Yes, sir.

Q. Ride with a horse and buggy?

A. Yes, sir.

Q. Do you recollect what time you returned?

A. I do not.

Q. Did you return before morning?

A. Yes, sir.

Q. Before eleven o'clock that night?

A. I could not say about the time. I do not know what time we started; it was pretty late when we started out.

A. Do you recollect where you went?

A. Rode around town,—might have walked around. Sobered off.

Q. Have you any idea what time it was when you returned to the Chapman House?

A. I could not give the time.

Q. The approximate time, as near as you can say, if you have any recollection whatever. I do not mean the accurate time.

A. It would be all guess-work.

Q. I do not want it, if it is all guess-work.

A. It would be all guess-work with regard to the time that we returned.

Q. Was it between eleven and twelve, or between twelve and one?

A. It was later than that, because it was quite late when we started.

Q. Later than twelve and one?

A. Yes, sir.

Q. Between one and two?

A. I should presume that was about the time,—two o'clock, perhaps.

Q. Did Mr. Straub, that night, propose to arrest you?

A. I don't know whether he called it proposing to arrest or not. He came up to me. He found that I was an Odd Fellow, and I suppose, wanted to keep a guardian hand over me, and requested me to go to my room,—thought I was pretty lively.

Q. What time was that?

A. That was along about eleven or a little after.

Q. Where did he meet you?

A. In the hall. I think it was in the hall,—I would not state positively.

Q. What were you doing?

A. We were having a good time around. I do not know exactly what action I was doing then.

Q. That was in the hall between the rooms on the main floor?

A. I think it was, but I am not positive.

RE-EXAMINATION OF GEORGE B. GRISWOLD.

Examined by Mr. McGowan:

Question. I want to ask you if there was anything said that night at the Chapman House by the Commissioner in regard

to you or any of the other boys not drinking any more; if so, what it was, and who it was said it?

Answer. Capt. Edmonds told Mr. Dunham and myself that he wanted we should go to bed, and we didn't want to go, and he insisted upon our not drinking any more champagne, and told the bar-tender that if he allowed Mr. Dunham to have any more he did it at his peril. The bar-tender was quite angry about it, but I don't think he let him have any more, and Mr. Dunham was somewhat provoked. The Commissioner intimated that he must stop this and cool down, or perhaps there would be trouble.

Q. Can you use the Commissioner's language? You say he intimated?

A. He told him if he did not stop his carousing he might lose his position.

Q. Do you know what time this was that this took place?

A. I should say it was about eleven o'clock, but I cannot fix the time.

RE-CROSS-EXAMINATION OF GEORGE B. GRISWOLD.

Examined by Mr. Manager Cochrane:

Question. When did this book commence?

Answer. After Capt. Edmonds commenced, along about a year ago this spring. There are fourteen or fifteen such books as that.

Q. All as full as that?

A. Yes, sir.

Q. About the same size?

A. All full.

Q. How long does it take to write up a town?

A. Towns vary; some are longer and some are shorter.

Q. Well, on the average?

A. The old surveys are short; the re-surveys are much longer. It takes to write up an old survey township, I should think, about three days; I think that is about the time.

Q. A new survey township?

A. About five, I should say.

Q. What proportion of the townships are old, and what proportion new surveys?

A. Well, where we have written last year, it was in a section where nearly all the townships had been resurveyed and the old surveys canceled; nearly all of them were re-surveys,—I think all in that book are re-surveys.

Q. They would take about five days on an average?

A. I should think about five days; there is a difference in clerks,—some write faster than others.

Q. Now, will you explain how this thing is done; explain briefly how you arrange for transferring these from those small books here?

A. Yes, sir; the subdivisions of a township are generally in one book.

By the Presiding Officer:

Question. What do you mean by subdivisions,—the sections?

Answer. Yes, sir. Then the town lines were surveyed by different surveyors—the south boundary, east, north, and west boundary.

Q. Those are in other books?

A. Yes, sir. Those are in other books, and these books are well scattered. I would go to work and search and find the south boundary of the township, any particular section that had been surveyed, and look that up, and then the east boundary, and the north and west boundaries the same; get the books and give them to a man, and tell him to copy them just as I had marked them in the order; then give him the book for the subdivision and tell him to copy that; after that was completed, they were all compared with the originals; after that, when there was a sufficient number of towns written to make a volume, they were taken to the State Printers, Mr. George, and bound, and they are called finished after indexing them.

Q. These field-notes or notes were only with respect to the section lines and town lines, then?

A. All the lines that were ever run by a surveyor.

Q. That is the fact that there are no other lines?

A. Yes, sir. Subdivided into sections and town lines.

Q. The quarter sections are merely imaginary quarter section lines; they are not actually surveyed?

A. No, sir; only around the exterior of each section.—generally about ten townships in a volume.

Q. Are the volumes all the size of that? [Referring to volume in evidence.]

A. No, sir. They are about the same size.

Q. Larger or smaller?

A. Some larger, and some smaller?

Q. That is a fair average?

A. Yes, sir.

Q. How many did you observe there were?

A. Do you mean all that are written? Fifty or sixty, or seventy-five or a hundred volumes in all.

By Mr. Manager Huston:

Question. That have been written up since you were writing there?

Answer. I think fifteen volumes bound last year, and we have enough for about a dozen volumes more now, that we are about ready to take to the printing-office.

By Mr. Manager Cochrane:

Question. Then I understand you that these sheets are first written, and then printed?

A. Yes, sir.

Q. Not put into the book in the shape they are?

A. No, sir; written in pamphlet form and then bound.

Q. How many have you to bind now?

A. I could not say, exactly; I should think from seven to twelve volumes.

Q. Fully written up, do you mean, that are entirely ready for binding?

A. I think they are about ready. I don't know as they are quite all compared yet,—I think they are, though; the comparing we keep right up with the writing generally. I would like to make an explanation. The clerks that are writing for the

office, part of the time are writing upon orders received from counties and private sources.

Q. You stated that the Commissioner had never been to Alice McCabe's?

A. Never.

Q. Are you in the habit of frequenting that place yourself?

Mr. Shipman—Mr. President—

The Witness—I am willing to answer any question in regard to the Commissioner.

Mr. Shipman—Mr. President: We object. It is not proper cross-examination; it is not a matter gone into by us, and it is quite immaterial here; and it is a question that the witness has a right to refuse to answer.

The Presiding Officer—When the witness claims that privilege, will be time to raise that question.

Mr. Manager Cochrane—It may be something that would go to the credibility of the witness, if the witness is in the habit of frequenting such places, inasmuch as this examination, in some respects, touches that very question. It strikes me that it may go to his credibility.

The Witness—I am willing to answer the question as I understand it, whether I am in the habit of frequenting such places. I am not in the habit of frequenting such places.

Question. The question is, are you in the habit of frequenting that place?

Answer. I am not.

Q. What do you call habit?

A. That is the answer, the only answer, that I shall give: That I am not in the habit of frequenting that place.

Q. Do you intend to say that you never go there.

A. I didn't say so.

Q Do you say that?

A. I shan't say.

Mr. McGowan—We propose simply to make an exhibit of these books that have been here; not to offer them in evidence, but to leave them here, as an exhibit, for the present, those

three packages of the old field-notes, and the two volumes of the new.

Mr. Manager Huston—Will you make an exhibit of the record of licensed lands, also?

Mr. McGowan—Yes, sir; we will bring the license-book in during the day.

Mr. Manager Huston—That will be satisfactory.

TESTIMONY OF C. L. KNIGHT.

C. L. Knight, a witness produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. McGowan:

Question. You are a clerk in the Land Office?

Answer. I am.

Q. How long have you been connected with the Land Office, as an employe?

A. Oh, four years and a half.

Q. What is your present business in the office?

A. I am now working on swamp-land abstracts.

Q. How long have you been engaged in that work?

A. Since last June.

Q. When did that work commence?

A. About that time.

Q. The first of last June?

A. In June sometime, I think.

Q. Will you tell us what you call a swamp-land abstract?

A. We are copying the patents from the Government to the State, and then writing the names of the party to whom the lands have been sold, and making a full abstract of the description, from the patent from the United States, to the last sale.

Q. In how small divisions of land?

A. Where the land has been sold, we put the full description in,—in quarter sections, if it is sold as large as that; if less, in forties. All vacant lands are put in forties.

Q. The description is put in of the size that the land is sold?

A. Yes, sir.

Q. Have you an abstract-book before you?

A. Yes, sir.

Q. Which one?

A. No. 1, the first one we commenced.

Q. I ask you to refer to that book, on page 477,—will you give the history of the N. W. of the S. W. of 36, 7 N., 4 E., as appears by that abstract book?

A. "Subdivision N. W. of S. W. Sec. 36, patent vol. 2, p. 128." That is recorded in this other book. I have here "Sold to David White, Feb. 8th, 1860—or licensed rather No. 11th '69."

Q. What is that number,—the number of the license?

A. Yes, sir.

Q. Go on.

A. Canceled and sold to Orson Bouch, March, 1865.

Q. How do you spell the name?

A. B-o-u-c-h.

Q. Is that "h," or "k?"

A. "H."

Q. Probably there is no mistake about the description?

A. No, sir. It is dated March 14, 1865; 4285. That is the number of the license. Canceled again and sold to Samuel V. Cornell, October 19th, 1871,—No. 9807 on roll-book; and then there is a memorandum certificate: "Surrendered and canceled Feb. 27th, 1872. See affidavit on file, 4285." The N. W. of S. W., 36; Orson Bouch, March 14th, 1865, 4285 L; patent, 1809, 4272. That last description shows the present situation.

Q. What is the final disposition of the lands, as shown by the abstract?

A. Patented to Orson Bouch, March 2d, 1872, on a license.

Q. What is the amount of work done since the beginning of making this abstract, in your department?

A. We have nearly completed the 4th volume, and are now working on the 5th,—all the same size as this.

Q. How much territory have you gone over?

A. We have nearly completed the Lower Peninsula, of the swamp land, not the "primary school" or "Agricultural College."

Q. How many of you have been at work on these abstracts since the commencement of making them?

A. Two at first, from the first of June to August, and since August we have had four.

Q. Who superintends that work?

A. I do.

Q. Have you from the beginning?

A. Yes, sir.

Q. State whether the clerks who have been employed in making these abstracts have been faithful or not in the discharge of the work.

A. They have.

Q. How do you make these abstracts, from how many books, and what books?

A. From the recorded patents. It is according to the description; if it is a cash sale it is recorded in three other volumes.

Q. If a scrip sale?

A. If it is a scrip sale it may have been, in the whole, a cash license, and finally sold for scrip, or the license canceled. They may purchase them for cash, and then forfeited several times, more or less, and then sold.

Q. Do I understand that, in any event, you have to examine the four volumes to get the history of a piece?

A. Yes, sir.

Q. Do you ever have to examine more than that?

A. Yes, sir.

Q. How many do you have to examine to get the history of a transaction?

A. It varies from four to eight.

Q. In the progress of this work, have you found any errors in the records of the office that is necessary to correct?

A. Yes, sir.

Q. How many?

A. A great many. I cannot say how many. There are a great many descriptions patented in error, and marked up on the old books. There are a great many pieces that have been sold, that are marked up in error in the sales, and instead of marking the right description, they have marked the wrong description.

Q. Whether any of these sales referred to the United States land lying within the boundary?

A. Yes, sir.

Q. In what regard?

A. We find a great many of the old surveys and the re-surveys that conflicted,—that had been patented up to the State of Michigan under the old survey, and patented under the new survey, located on different sections.

Q. How many of those errors would you correct in a day, on the average?

A. It is according to the location. Up in Alpena we find a great many. We work all day, sometimes, on mistakes, and sometimes we find a number.

Q. In the Alpena district, how many mistakes would you find in a day in your department?

A. Well, I could not tell exactly, they vary so. We have had these old surveys trouble us for a week, but of course we would not find all mistakes. Some would be patented up correctly, and some would not.

Q. But when there are no mistakes, the matter is so confused it took you some time to work it out?

A. Yes, sir.

Q. What is the practical value of these abstract-books in the office?

A. It condenses in one book what you would have to look through half a dozen books for. When we get the thing completed we will have a complete record in two books of two kinds of land.

Q. Are there frequent applications to the office for abstracts of land?

A. Yes, sir.

Q. State how these books will facilitate the making of these for parties applying?

A. As we have it here, one man can do it; otherwise it will take two, and they would have to search all the other records through.

Q. Do you know what the regular charge of the office is for abstract records to send out,—was it fifteen cents a folio?

A. Yes, sir.

Q. Can you give some estimate of how much of this work you have been doing would facilitate the work of making up abstracts sent for from the office?

A. One can do the work that it would take three men to do before.

Q. Then one man with those books can do three times as much as he could do without them. Is that what you mean?

A. Yes, sir.

Q. Were there any more clerks employed than what was necessary to make those abstracts?

A. No, sir.

Q. To facilitate the work and carry it on properly?

A. Not any more.

Q. Now, you were employed as a clerk in the office previous to Edmonds' administration. Will you state whether or not the employes of the office, since his administration, have done their work as well and efficiently as they had previously?

Mr. Manager Huston—We object. We cannot see how it can be material whether they have done their work as well or as efficiently as the clerks under the preceding administration. We cannot see what difference it makes with the charges against Mr. Edmonds, whether the clerks under the Pritchard administration, or any former administration, did their work well or not. Suppose they did not do anything. Suppose they neglected their business generally. It seems to me, that

would not be any excuse for the clerks in Mr. Edmonds' employ neglecting their duties. It seems to me, a comparison of that kind is not competent. They may have neglected their duties in each administration.

Mr. McGowan—To save further discussion, we will withdraw the question in that form.

[Question withdrawn.]

Question. I will ask you this: whether, during Mr. Edmonds' administration, the clerks have been busy in the office, or whether they have been idle?

Answer. Why, I think they have been attending to their business generally, as far as I have seen.

CROSS-EXAMINATION OF C. L. KNIGHT.

Cross-examined by Mr. Huston:

Question. You said the clerks have generally been busy; what do you mean by that?

Answer. As far as the clerks that have been laboring with me are concerned, they have been very busy, and we have had steady employment.

Q. Those that have been under you?

A. Yes, sir.

Q. Then you do not refer to all the clerks in the office when you say "generally?"

A. As far as I have any knowledge. I do not pay much attention to the business of the other clerks.

Q. What do you say about Van Dunham?

A. I presume he has attended to his business.

Q. How is it as to his being busy all the time during office hours?

A. I think while he was there he was busy.

Q. Was he there during office hours at all times?

A. I presume not at all times.

Q. Don't you know he was not?

A. I think he has been absent.

Q. Don't you know he has been absent a great deal?

A. I can't say that he has.

Q. Don't you know that he has been absent more than any other clerk of the office during the time he was there?

A. I do not.

Q. What other clerk has been absent as much as Van Dunham? Has Clarke?

A. I presume he has.

Q. Has Griswold been absent as much as Van Dunham?

A. I think not.

Q. What other clerk has been absent as much as Mr. Van Dunham?

A. I can't say.

Q. Now, don't you remember the fact of one of the clerks keeping an account one month, of the number of days that Van Dunham worked in the office; and that he was not there but sixteen days, and still drew his full pay for the month?

A. No, sir; I don't remember anything about it.

Q. You never heard anything about that?

A. No, sir.

Q. Does the draughtsman do anything besides making the plats?

A. No, sir; that is all he has to attend to.

Q. Is Mr. Van Dunham always there to wait upon people that apply for plats?

A. He is not always there.

Q. What portion of his time did it take to made the plats?

A. I cannot say.

Q. Can you use those books, you have here, for the purpose of making plats.

A. He has, a little.

Q. You have got nearly all the Lower Peninsula completed?

A. It is now ready for the platman.

Q. Is it not ready for use yet?

A. No, sir.

Q. I didn't know but you had them ready for use, so that some of the clerks have been discharged on account of the reduction of labor.

A. No, sir.

Q. There has been no discharge yet, on account of the work being reduced?

A. Not from this department.

Q. How many conveyances do you put upon these abstract-books?

A. Different sales?

Q. Yes. How many on patents and conveyances? How many changes of title?

A. All the changes there are in the hands of the State. Now, for instance, a piece of land is licensed and abandoned and resold for cash, and perhaps forfeited again and resold, and finally ends up with the sale upon the scrip.

Q. This book, that you have there, you intend to take the place of the other records you have referred to,—that is the intention, is it?

A. As far as the plat is concerned, and for general reference, those other books will have to be retained; but a good many of them are torn and worn out. The license-book and the scrip-book are mutilated some. This is for ready reference.

Q. How many do you say work at that book?

A. Four.

Q. Besides yourself?

A. No, sir; with myself.

Q. And you have written up how many books?

A. There are four, nearly completed, and we are working on the fifth.

Q. Will you turn to that piece of land in town 7 N., 4 E., that your attention was called to?

A. Yes, sir; I have it.

Q. I suppose your attention was called to that, for the purpose of illustrating the way that you could determine the title of a piece of land, was it not?

A. Yes, sir.

Q. Now, when do you say that land was licensed?

A. The first license is 1169, February 8th, 1860.

Q. To whom was it licensed?

A. David C. Weltse.

Q. Then it was licensed again?

A. Yes, sir.

Q. To whom?

A. Orson Bouch.

Q. Now, you are not certain that is Bouck, are you?

A. Call it what you please. It is Bouch.

Q. You did not know what that name was, and could not tell until the counsel suggested. Is not that the fact?

A. Bouch.

Q. Are you certain about that name?

A. I am certain it is W-e-l-t-s-e.

Q. How was the first license canceled,—for what reason?

A. I cannot say.

Q. Then your abstract is not proof in that respect? Can you tell me why Mr. Weltse—if that is the name,—is not the legal owner of that piece of land? Can you tell me from the abstract?

A. Because the first license was canceled.

Q. For what purpose,—why was it canceled?

A. I presume he abandoned it.

Q. You presume,—does your book show that?

A. It does not,—that is what we understand, though.

Q. From what way do you understand it. If he had filed his three months' proof, and, at the end of five years filed his final proofs, that would make him the legal owner of the land and he would be entitled to it?

A. Yes, sir, if he had done any such thing.

Q. How do you know whether he has or has not?

A. We take this from the records in the office, and I don't think that shows any such thing. It did not where we found this, certainly.

Q. Does the record show anything about whether his license has been canceled?

A. It does.

Q. There is such a record as that?

A. Yes, sir.

Q. It does not show the reason?

A. I presume it does.

Q. Your abstract does not show?

A. Not here.

Q. Has the license of Mr. Bouch been canceled.

A. It was.

Q. When?

A. The license is dated March 14, 1865, and it was canceled and sold to J. W. Cornell.

Q. What was it canceled for? Why was it canceled?

A. Under the same—

Q. Why was it canceled? Can you tell from the abstract?

A. I cannot.

Q. Is it not a fact that if you want to find out for what purpose the first license is canceled, you have to refer back to those books?

A. Yes, sir; or to the file.

Q. If you want to find out why Bouch's license was canceled, have you not got to refer to the original records?

A. Yes, sir.

Q. You cannot tell from the abstract?

A. I cannot.

Q. It was canceled, and the land was sold to Cornell?

A. Yes, sir; Oct. 19, '71. The certificate has been surrendered since.

Q. Upon what certificate was it sold to Cornell? What is the number of the certificate?

A. 9807.

Q. Was there a license subsequently issued to Mr. Bouch, as second license?

A. Yes, sir; or perhaps the second license. It was patented under the original license.

Q. Does your abstract show that a new license was issued to him?

A. It does not.

Q. Do you know whether it was licensed a second time to Mr. Bouch?

A. I do not.

Q. Can you tell from your abstract?

A. It says the same number of license patented on that day.

Q. Then your abstract shows this state of facts,—that in 1865 that land was licensed to Mr. Bouch?

A. Yes, sir.

Q. It shows that on the 19th of October the license was canceled for some reason; you cannot tell what?

A. Yes, sir.

Q. Then at a subsequent date in March, 1872, it is licensed again?

A. Yes, sir.

Q. And the license bears the same number as the old license?

A. Yes, sir.

Q. Now, are not the licenses in consecutive order?

A. They are.

Q. What is the number?

A. 4285.

Q. Can you tell me how it is that license No. 4285, that was canceled and set aside on October 19th, 1871, was restored March, 1872?

A. Mr. Cornell surrendered his certificate.

Q. I am not speaking about the license. How was it that it is the license of the old date that was issued to Cornell?

A. It was patented on that license.

Q. It was patented on a license that had been declared void, because Mr. Bouch had not filed his three-months' proof?

A. It was patented on the same license.

Q. The same one that was canceled?

A. Yes, sir.

Q. Without any new license?

A. Yes, sir.

Q. It was the same old license?

A. The same number,—4285.

Q. For what reason was Mr. Cornell's certificate canceled?

A. The reference here says, "See affidavits on file, license No. 4285."

Q. Is it not true, if I want to procure an abstract of the title of that piece of land, before you could tell me just how it stood, so that I would know whether I was going to get a good title, if I was going to purchase it, that you would have to examine the books to ascertain why Weltse's license was canceled, and you would also have to examine the old original books to ascertain why Bouch's license was canceled; and also examine the original books to ascertain why Cornell's certificate was canceled; and also to ascertain why the patent was issued to Bouch upon the old original license, number 4284. Would you not have to go back to the books to get all that information?

A. We would refer to the files in such a case as that is.

Q. You would have to go to some source from which you made that abstract, to get at the work of the office?

A. No, sir.

Q. I would like to have you explain it.

A. This we have taken from the books, and the affidavits and the files we would get from the box filed in the safe.

Q. What you get from the files in the box? You would have to go to that for the purpose of getting that information?

A. Yes, sir.

Q. Then you would go to the same sources from which you made that abstract?

A. This we have taken from the books and records in the office, and that is all we have to do with them. In relation to this description, and for the proof of abandonment, and when it was canceled, we would refer to the box.

Q. Does that book give you information on any points that I asked you in my last question, with regard to the setting

aside of the first or second certificate of licenses, or the canceling of the certificate?

A. It does not tell the reason why.

Q. It does not show all the facts in the case then, does it?

A. No, sir.

Q. How often are abstracts applied for?

A. We have them quite often.

Q. Once a week?

A. Perhaps short ones for a few descriptions: but for whole counties, not so often as that.

Q. Did you say it would average one a week,—an application for an abstract?

A. I do not think it will.

Q. What will the amount of money paid into the State for these abstracts average each?

A. For a county, it costs—

Q. Individuals apply, do they not,—you say there are short ones?

A. Yes, sir.

Q. I ask you what the average fee would be?

A. We charge so much per folio.

Q. What would an abstract—that of Cornell's—amount to? What would it be worth?

A. It would be so much a folio,—whatever it would count up.

Q. It would be less than a folio?

A. About that, I should think.

Q. Do they average over two shillings a piece, these abstracts of a single description?

A. Yes, sir.

Q. The average conveyances will not be over two, from the United States to the State, and from the State to some other party, will it,—that is all the conveyance there usually is about conveyances from the United States to the State, and that is in the list?

A. Yes, sir; bound volume.

Q. Those lists are bound?

A. The patents.

Q. Those lists of land from the United States to the State are just as handy to refer to as these books here. They are in bound books, similar to this?

A. We have an index to each patent-book.

Q. Then, as a general rule, so far as the conveyance are conveyances are concerned, you only reduce the number of books from two to one. Is not that so, as far as the conveyances are concerned?

A. No, sir, I think not.

Q. When, for instance, lands are conveyed from the United States to the State, and by the State to some other party, the record is all in two books, is it not?

A. Not in the Land Office. We must get it from several books.

Q. How is it?

A. There is a cash sale and a ledger account that is part paid. We have two scrip-books; simply one description, of course; and then, in the license, we have two books,—the license and the license patent book.

Q. Do you know what the total amount received for abstracts is, during the year?

A. I do not.

Q. Can you give us any estimate?

A. I cannot.

Q. Will it amount to a thousand dollars in a year?

A. I cannot say.

Q. Your best judgment; do you think it would amount to five hundred dollars?

A. I have no way of telling.

Q. You have had charge of this abstracting?

A. I have since last June; there were a great many made up before that.

Q. You have means of knowing how frequently these abstracts are called for?

A. I cannot say how much they do average.

Q. You have no opinion or judgment in regard to it?

A. I have not.

Q. Who had charge of that department of making and selling the abstracts when they were applied for?

A. It came through Mr. Barnard's hands; application was made to him.

Q. What clerk, I mean, makes them up?

A. Mr. De Viney and Burdick have worked on some, and Mr. Turner and myself.

Q. The fees for abstracts are kept upon the same books that the fees are for field-notes and plats?

A. I presume they are.

Q. You understand that to be the fact?

A. Yes, sir.

RE-EXAMINATION OF C. L. KNIGHT.

Examined by Mr. McGowan:

Question. Is the volume before you an abstract of reasons, or an abstract of facts?

Answer. An abstract of facts, we understand it.

Q. Would it make any difference with regard to the efficiency of that book whether you could pronounce the name, or could not pronounce it?

A. It would not,—the spelling is here.

Q. If your abstract contained the original document at length, would it be an abstract at all?

A. I don't know as it would.

Mr. McGowan—I ask to make an exhibit of these two volumes, and I ask that the witness may state what the other volume is that he has brought here?

The Witness—It is a volume of patents.

Mr. McGowan—It is a bound volume of patents spoken of by the Governor in his evidence.

The Presiding Officer—The Secretary will mark it.

TESTIMONY OF DR. S. S. CUTTER.

S. S. Cutter, a witness, produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. Shipman:

Question. Where do you live?

Answer. At Coldwater, Michigan.

Q. How long have you lived there.

A. Nearly thirty years—thirty years next August.

Q. What is your profession?

A. The practice of medicine.

Q. How long have you been in that?

A. Twenty-seven years.

Q. Are you acquainted with the Commissioner, Mr. Edmonds?

A. I have been, for a few years.

Q. Since his residence in Coldwater?

A. Yes, sir.

Q. Do you remember of being called to attend upon him, I think about in the fall of 1869, for any purpose. It may be it was not that time?

A. Perhaps in December, 1869, if I recollect,—the latter part of December,—I have no means of fixing the day or evening,—I was called to see Mr. Edmonds professionally.

Q. Were you his regular physician?

A. I was not. Dr. Bennett of Coldwater was, I understand, his regular physician.

Q. Will you state the occasion of your being called?

A. Mrs. Edmonds came to my house in great haste after I had retired, and desired me to go to see her husband, who, she stated, was bleeding very badly.

Q. What time in the night was that?

A. I should think near midnight. I don't know the exact time; somewhere between ten and twelve. If I remember right, near midnight.

Q. Did you go to his house?

A. I went to his house.

Q. During the time you were there did any other physician come there?

A. I met Dr. Bennett at the house. I am not positive whether he was there when I got there, but I think he was. Mrs. Edmonds, as I understood it, had gone for Dr. Bennett, and he was out, and she immediately ran to my house, I living near him, and called on me, and Dr. Bennett had returned, as I understood it, and came in about the same time I did.

Q. State what the difficulty was, then?

A. The difficulty, as I understood it at the time, was a hemorrhage from the urethra; at any rate, it was from the penis, and he was pretty extensively covered with blood; his shirt and legs and private parts were covered with blood, and blood was dropping from the end of the urethra. He was better; it had somewhat ceased when I got there.

Q. Did you notice any on the bed,—on the sheets?

A. My impression is that I did; that is my remembrance. I believe that Mr. Edmonds had got out of bed when I got there; was on his feet, not dressed.

Q. Could it be determined from casual observation whether a stain of that kind on a sheet was from that kind of hemorrhage, or from menses,—the flow?

A. I think not.

The Presiding Officer—Have the Honorable Managers any questions?

Mr. Manager Grosvenor—We would like to be excused from cross-examining at this moment. If we desire to cross-examine him, we will notify him within an hour or two.

TESTIMONY OF DR. JOHN H. BENNETT.

John H. Bennett, a witness produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. Shipman:

Question. Where do you live?

Answer. In Coldwater.

Q. How long have you lived there?

A. I have lived in the city of Coldwater at two different times.

Q. How long have you been in the county?

A. I have been in the county, with the exception of about three years, since 1839, the 10th day of May.

Q. Are you a practicing physician?

A. I am.

Q. How long have you practiced medicine?

A. I have practiced medicine since 1854, about the first of October.

Q. You are acquainted with Commissioner Edmonds, are you?

A. I am.

Q. Have you attended upon him, as his physician, since he has resided in Coldwater?

A. I think I have been Mr. Edmonds' family physician during his residence in Coldwater.

Q. Do you recollect of being called to attend upon him, in the fall of 1869, for any purpose?

A. I do so, sir.

Q. Did you hear Dr. Cutter testify?

A. I did, sir.

Q. Was you there upon that occasion?

A. I was, sir.

Q. Will you state what the difficulty was, as you ascertained it from your observation, and what transpired there?

A. Well, the day was the 26th of December, and we called, as Doctor Cutter has stated, somewhere between ten and twelve o'clock. I arrived at the house first. I found Mr. Edmonds bleeding; he had bled very profusely; he was bleeding from the penis; undoubtedly a hemorrhage from the urethra; it was not mixed with other matter, so that was undoubtedly the case.

Q. Did you ascertain whether he had been afflicted with that before?

A. I learned then, for the first time, that he had had such hemorrhages.

Q. Did you notice any stain upon the bed?

A. I do not recollect in regard to the bed, but my impression is, there was blood in the bed, but that I cannot be certain of. There was a large amount of blood on his person, and the night-clothes he had on,—which, I think, was his shirt; that is, I mean, a large amount of blood flowing from the urethra.

Q. In your opinion, would an ordinary observer detect the difference between the stain caused by that flow upon the sheets, then, from the menstrual flow?

A. It would be impossible for an ordinary observer to do that by ocular inspection.

Mr. Manager Grosvenor—We will make the same request in regard to this witness, as in the other medical witness.

CROSS-EXAMINATION OF DR. JOHN H. BENNETT.

Cross-examined by Mr. Manager Cochrane:

Question. I would like to ask how long you have been the family physician of the Commissioner?

Answer. I think, for nearly six years.

Q. Had you ever been called before, on an occasion of this kind?

A. No, not with such a difficulty,—not for that difficulty. Had been called for other difficulties in his family.

Q. In regard to this?

A. Nothing until that.

Q. Let me ask you what was said there in regard to its having occurred before? You stated that you obtained some information there at that time.

A. My recollection is, that I inquired, either on that evening or on a visit which I made afterwards, as to the probable origin or cause of the hemorrhage, and I learned then at that visit, or on some subsequent visit, that he had some time previous to that,—I don't recollect the time,—had suffered some injury to the genital organs. Since that he had had hemor-

hage from the urethra, but not to such an extent. They were frightened because the hemorrhage exceeded anything they seen before; it frightened his wife on this occasion.

Q. Have you been called to see him since that time for the same difficulty?

A. I have not.

Q. In your practice that you have had, have you had many cases or found many cases of this kind?

A. I think they are not very frequent. I have not had a great many of them.

Q. You mean that you have had some or known of some?

A. I have had such cases under my care before.

Q. How is that produced, Doctor?

A. Well, sir, it may be produced in a variety of ways. The hemorrhage may be produced from the urethra in a variety of ways.

Q. I do not mean the original cause of it, perhaps. As I understand you, in this case, the Commissioner said that he had received some physical injury I do not refer to that; but the immediate production of it at this time,—what was the immediate cause of it,—how does it occur at a period long subsequent to any physical injury?

A. Well, what the immediate cause might have been at that time, we do not know; but we know anything that should cause an unnatural fullness of the blood vessels might cause a hemorrhage. Possibly in this case, here may have been a varicose state; that is, a dilated, enlarged condition of those vessels which supplies blood to those parts, and if so, on the occasion of any excitement, fatigue, long riding, journeys on horse-back, or anything of this kind which would fill those blood vessels supplying that membrane, it might result in rupture of the capillary vessels and consequent increased hemorrhage,—consequent enlarged hemorrhage,—and in proportion as those blood vessels were filled, would be the extent, probably, of the hemorrhage.

Q. In a case, Doctor, produced by fatigue, occasioned by riding, or anything of that kind, would it occur probably at midnight, instead of at the time, perhaps, when the fatigue of the body was at the greatest?

A. It might; for this reason: Long riding, exciting circulation, and the want of rest would increase undoubtedly the congestion of the genital organs; and even, furthermore, the fullness of the bladder by the secretion of urine pressing upon the veins might cause a preternatural fullness of the blood-vessels of the genital organs.

Mr. Manager Cochrane—This a matter, Mr. President, that we are not prepared upon, and we will defer any farther examination for the present.

The Presiding Officer—We will take the usual informal recess of ten minutes.

AFTER RECESS.

TESTIMONY OF DAVID B. PURINTON.

David B. Purinton, a witness, produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. McGowan:

Question. Where do you reside?

Answer. Coldwater.

Q. How long have you lived there?

A. Sixteen years.

Q. Are you acquainted with Commissioner Edmonds?

A. I am.

Q. How long have you been acquainted with him?

A. Since 1848.

Q. State whether you were in the convention at Detroit, at at the time of his nomination?

A. I was.

Q. State whether you have any knowledge of any bargains made there, or any bargain, made by Mr. Edmonds with E. H. Porter, formerly Deputy Commissioner of the Land Office?

A. I have none.

Q. Did you make any bargain, as a friend of Mr. Edmonds, with Mr. Porter?

A. I did not.

Q. Will you state what took place,—what was said with reference to this, if anything, and if so, when it was, during this convention?

Mr. Manager Cochrane—Is this witness one of the persons named by Mr. Porter?

Mr. McGowan—He is the friend of Edmonds, so called by Porter.

Witness, [To Mr. McGowan.]—You mean with Mr. Porter?

Mr. McGowan—Yes, sir.

Answer. After Mr. Edmonds was nominated, Mr. Porter came to me and said, "Under the circumstances, as you will have some influence with Mr. Edmonds, I would like to have you speak to him to retain me in the office as Deputy." I told him I would mention the matter to Mr. Edmonds for him; and that was the whole conversation between Porter and me.

Q. That was after the nomination?

A. After the nomination.

Q. State whether Judge Williams of Allegan, or any other parties, came to you in behalf of Mr. Porter previous to that time, and that you then made any arrangement in his behalf?

A. Judge Williams did not; Mr. Delos Phillips of Kalamazoo spoke to me about it before Mr. Porter, but after the nomination, and said something like this: "That Mr. Porter had expected, in case Gen. Pritchard's name was brought before the convention, to be a candidate, and that under the circumstances he was feeling bad about it, and would like to be retained as Deputy in the office, and wished I would speak to Mr. Edmonds about it."

Q. State, then, whether you had any talk with any one about Mr. Porter previous to the nomination.

A. No, sir.

Q. You say you made no bargain previous or subsequent to the nomination?

A. That was all the time, previous or subsequent.

Q. Or any promises?

A. Or any promises.

CROSS-EXAMINATION OF DAVID B. PURINTON.

Cross-examined by Mr. Manager Huston:

Question. When was it this gentleman from Kalamazoo spoke to you,—before or after the nomination?

A. It was before the nomination. It might have possibly been before the last count of the ballot, when we knew Edmonds was nominated.

Q. You know of no conversation held on that subject prior to the nomination?

A. I do not.

Q. There was none held with you?

A. There was none held with me.

Q. You do not know what talk there may have been with other parties?

A. I do not know, but still I have good reason to believe there was none.

Q. You do not know what conversation might have been held with other individuals, in that convention, with regard to the arrangement?

A. Of course I do not.

Q. It might have been held with other individuals, in that convention, without your knowledge?

A. It might. I do not think it could have been held with Edmonds.

Q. The talk you had with Porter was after the nomination?

A. After the nomination.

Q. That was the first you knew of any arrangement of that kind?

A. When Col. Phillips spoke to me, was the first I knew that Porter was to be a candidate at all, or thought of being a candidate.

Q. Do you not know, as a matter of fact, that the delegates in that convention, who went there expecting to present Porter's name and support him, did support Edmonds; that they, for some reason, dropped the name of Porter and supported Edmonds?

A. I do not know any further than Col. Phillips,—I think he did.

Q. Do you not know that the Allegan delegation did the same thing?

A. I think the Allegan delegation did, because I spoke to Judge Williams before the nomination, and asked him, if Edmonds' name was brought forward, if he would support him.

Q. What did he say about Porter in that conversation?

A. He was in hopes of nominating Gen. Pritchard. There was not a word said about Porter.

RE-EXAMINATION OF DAVID B. PURINTON.

Examined by Mr. Shipman:

Question. Were you with Edmonds all the time there?

Answer. I was nearly all; I think all the time.

Q. Could there have been any conversation with him about Porter, and you not have heard it?

A. I think not.

RE-CROSS-EXAMINATION OF DAVID B. PURINTON.

Examined by Mr. Manager Huston:

Question. Where were Edmonds' headquarters?

Answer. We stopped at the Biddle.

Q. Were you there during the nomination of the State officers?

A. At the time of the nomination of the State officers, we were in the convention. We were both delegates.

Q. You were each delegates and sat together?

A. Yes, sir; we sat in the front part of the hall.

Q. Were you together all the while at the Biddle House?

A. I could not say we were.

Q. Were you together all the while at the convention?

A. Except as I stepped back a little ways. We sat together, and I do not think he walked around the hall. I did, a little.

Q. Were there many people at the Biddle House?

A. Yes, sir.

Q. Was not the Biddle House crowded with people,—full?

A. I think not full.

Q. Were not there a good many people there?

A. Yes, sir.

Q. Was not the convention crowded?

A. The convention was crowded.

TESTIMONY OF A. L. BOURS.

A. L. Bours, a witness produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. McGowan:

Question. You have been acting as book-keeper in the Treasurer's office?

Answer. Yes, sir.

Q. State in what capacity you were in the Treasurer's office in 1870, at the end of the fiscal year?

A. I was book-keeper, sir.

Q. Whether you have any recollection of moneys from field-notes and plats being paid into the office at the end of that year?

A. Yes, sir.

Q. How much was paid in?

A. I can tell you exactly by referring to the book; it was over $1,900,—$1,982.30.

Q. Who paid it?

A. Mr. Porter.

Q. When?

A. On the 30th of November, 1870.

Q. Did he make any statement with regard to where he got that money?

A. He stated to me that it was field-notes, principally, that had been accumulated during the year.

Q. How was it paid?

A. By his check on the Second National Bank at Lansing.

Q. His individual check?

A. Yes, sir.

Q. Do you recollect the occasion of his paying in the accumulations from that source at the end of April, 1871.

A. Yes, sir.

Q. How much did he pay them?

A. My recollection is, that it was over $400,—$473.76.

Q. What was said, if anything, by Porter with regard to that?

A. Mr. Porter remarked that Edmonds now required that he should make these payments at the end of each month These seemed to be statements of the sales of State land he made when the other payment was made. Those were unusually large payments, and these statements were made in explanation of why they were so much.

Q. What was Porter's appearance and conduct at the time?

A. I do not know. I heard he said he had been having a talk with the Commissioner,—seemed to be a little confused, a little excited.

Q. Can you give the amount paid into the Treasury from these sources,—field-notes, plats, and so forth,—during the years 1869, 1870, and 1871?

A. I can do so in about fifteen or twenty minutes. It will require a little time to make them up.

Mr. McGowan—I will ask, when the witness leaves the stand, that he may be allowed to make a statement of the aggregate of each of those years, with the privilege of filing it as evidence in the case.

The Presiding Officer—He may do so.

By Mr. McGowan:

Question. Do you recollect the occasion of moving the office,

from the old office down into the new,—"from the old house into the new?"

Answer. I do sir.

Q. When was it?

A. About the middle of December last.

Q. Do you know when the moving commenced?

A. The last transaction we had in the old Land Office was on the 13th of December, one day subsequent to receiving any money from the Auditor's office. The Auditor's office commenced moving sooner than the Land Office. My recollection is that we resumed doing business for the Land Office on the 19th. The suspension was somewere about five or six days.

CROSS-EXAMINATION OF A. L. BOURS.

Cross-examined by Mr. Manager Huston:

Question. Can you tell from your books the particular things that this money is for?

Answer. No, sir. The entry that we made is for fees, plats etc.

Q. You cannot tell whether abstracts, etc., are included?

A. It is included in his amount, and the statement is made—

Q. You cannot tell how much is for field-notes, how much for plats, and how much for abstracts?

A. No, sir; no division.

Q. Simply one item?

A. Yes, sir.

Q. You have no means of telling from your books?

A. No, sir; we never have the information. The money is brought in all at once, usually on the last day of the month, with the statement that that is for fees received during the month.

Q. How long were you moving down from the old office into the new?

A. We were engaged perhaps two weeks, altogether; but business was necessarily suspended about a week.

Q. Do you know how long it was suspended in the Land Office?

A. I think it was five or six days. I referred to the book yesterday, and I think our last receipt from the Land Office was on the 13th of December; and no receipts from that time until the 19th.

Q. There were receipts on the 19th?

A. I think there was.

Q. Can you tell from the book you have here?

A. No.

Q. Will you look, so that when you come back you can tell positively?

A. Yes, sir; I will do so.

TESTIMONY OF ELIAS SHAFER.

Elias Shafer, a witness, produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. McGowan:

Question. You are one of the clerks in the Land Office?

Answer. I am.

Q. How long have you been employed in the Land Office?

A. Since the sixteenth of December, 1869.

Q. About what are you now employed?

A. At work on the field-notes.

Q. How long have you been at work on the field-notes?

A. It has been my work pretty much in there, with the exception of about a month that I assisted in making up one report.

Q. Who now superintends that work.

A. I have rather been for a few days past, since Griswold left.

Q. How many are employed there since Griswold left, upon the work?

A. There are four, including myself.

Q. What is the necessity of writing up these field-notes, if you know?

A. I should think it was a necessity, from the fact that these small books are rather frail, and liable to be worn out and destroyed, and it would leave them in a much more even shape for reference, and more convenient for keeping.

Q. Are any of those small books now worn?

A. Some of them are somewhat; many of the books have quite poor covers, or covers entirely off; and in some cases there were loose leaves liable to be lost.

Q. Were you ever employed in any of the other State offices?

A. I was employed during the summer of 1869 in the Auditor General's office, from May until November seventeenth or eighteenth; and I was then employed from the seventeenth of November until the sixteenth of December, in the Secretary of State's office.

Q. One month?

A. Yes, sir.

Q. When was that?

A. In 1869.

Q. State what you received for that month's work in the Secretary of State's office?

A. I received at the rate of seventy-five dollars a month.

Q. Nine hundred dollars a year?

A. Yes, sir.

Q. Had you previous to that time worked in the Secretary of State's office?

A. I had not.

Q. State whether you, with the other clerks who have been at work upon the field-notes, have been tending to your duties while you have been at work?

A. I think we have. I have tried to do so, and I think I can say the same of the rest.

CROSS-EXAMINATION OF ELIAS SHAFER.

Cross-examined by Mr. Manager Huston:

Question. How many hours a day do you work?

Answer. Seven hours and a half.

Q. What time do you commence in the morning?

A. Eight o'clock, and work until twelve, and from half past one until five, except on Saturday,—we quit at four o'clock on Saturday.

Q. Who are the clerks that are working on field-notes?

A. Mr. Cherry is working on field notes, Mr. Hamilton, and Mr. Lewis.

Q. There are three besides you?

A. Yes, sir.

Q. How long did you say you had been at that work?

A. The greater part of the time,—nearly all of the time since I commenced.

Q. That is the 16th of December, 1869?

A. Yes, sir.

Q. About the same force working at it?

A. There is some more than have been during the past year.

Q. How many more are there working at that, than there were during 1869 and 1870?

A. Part of the time in 1869 and 1870, there was nearly the same force.

Q. How many were there in 1870,—you have got three besides yourself, now. How many was there in 1870, besides yourself?

A. Well, there was as many as three, part of the time; but part of the time they were at work on other work.

Q. Wasn't there more than three some of the time in 1870?

A. I think there were as many as four, part of the time.

Q. Wasn't there as many as three in 1869.

A. I guess there was, a portion of the time.

Q. Then the increase, in the Commissioner's office, of clerks, since the present Commissioner has been in office, is not caused by giving you additional force at that work, is it?

A. It has been, partially. Part of the clerks that were on the field-notes were called off many times to work on abstracts.

Q. Yes; but if you had no greater force than you had in 1870, why, there would be no additional clerks in the office, would there?

A. No more than there was in 1870,—I would say 1871; I was thinking of 1871, when I said 1870,—that there were not so many in 1870; there were as many there a part of the time; there were a portion of them at work on abstracts; the work is now done by this abstract force.

Q. Then this abstract was commenced in 1870?

A. I did not say *this* abstract; the abstract orders that came to the office from counties or townships.

Q. How often do these orders for abstracts come to the office?

A. I could not say anything about that, because I know nothing about it, any more than I know that at different times men were at work on them.

Q. They do not come very frequently, do they?

A. I could not say anything about it, because I never worked on them. I know nothing about them.

Q. If there were enough to keep clerks to work at the abstracts any reasonable proportion of the time, you would have knowledge of it, would not you?

A. I may not, if field-note clerks were—

Q. If there were any clerks in the office whose attention was mainly taken up in making abstracts of title for parties applying for abstracts, you would know it, would you not?

A. I probably would; I would observe it casually.

Q. That is not the fact, is it, that it takes the time of a clerk to make the abstracts for customers?

A. I should not say that it did, because, usually, when an order of that kind comes in there are as many as two usually at work on them. I never observe whether they are at work on the book of abstracts; I know very frequently they are at work on abstracts outside,—I could not say when.

Q. Do you know how generally these field-notes have been furnished to the counties, that you are making abstracts of.

A. I do not. I know there has been quite a number of counties furnished, but I could not name them.

Q. Have not nearly all the organized counties of the State got the field-notes?

A. No; I should not say they had, nearly all; I should not think they had more than half of them,—the organized counties.

Q. Can you not tell by making an examination in your office?

A. No, sir; I cannot tell. I do not know, up to within a year or two past, that there has been any record kept of them. I never gave it any particular attention, so that I cannot even remember the names of the counties I worked on myself, although I worked on quite a number.

Q. You do not mean that it cannot be told from the Commissioner's office, what counties have been furnished with field-notes?

A. Well, I don't have any record; there may be a record kept by the Deputies, or some others; I do not know of any. I have had nothing to do with that part of it,—I have chiefly worked on copying.

Q. What is the benefit that is proposed to be derived from these field-notes,—the making this record of them?

A. I should suppose it was a matter of convenience. These towns, as they now are in these small books, have been, a great number of them, re-surveyed. Many of the town lines have been re-surveyed. Frequently find the boundaries of one town where there have been two or three different surveys; sometimes a survey of a re-survey; sometimes fractions of land re-surveyed; and it would require three or four of these small books to get that perfect; and it was thought that if they were in a condensed form, and a correct form, that they would be in a much more convenient form for reference, than they would be in these small books.

Q. You spoke of a survey and a re-survey, and sometimes another survey, making three surveys. Who decides which is

the correct survey? How do you get at it to know which is the correct survey of the township?

A. We usually take the latest surveys. The others are usually canceled, sometimes the original survey, and it is marked out, and it makes a reference to the re-survey.

Q. Who cancels them?

A. The surveyor who makes the re-survey, at the time of making it.

Q. What authority has he for canceling the original survey?

A. I know nothing further than this, that a good many of these surveys have been pronounced by the Surveyor General as spurious, and re-surveys ordered.

Q. Have you not heard it talked in the office, since you have been making these re-surveys, that the Supreme Court of this State has decided that the old original survey is the survey that must be taken as the true survey in regard to all land titles in this State?

A. I have heard nothing further than this: When sales have been made by the United States, that the re-surveys must be made to conform to the old surveys, as far as sales have been made.

Q. Is not that understood to be the law in the office?

A. I suppose—

Q. That the first survey is the survey that binds?

A. Where sales have been made under it; further than that I have not understood that it was. Wherever descriptions have been sold in these re-surveys, the re-survey is made to conform to the old survey as far as the descriptions are sold.

Q. Then, in a township where there have been lands sold, and there has been two surveys, which do you follow then,—where there has been some land sold before the second survey?

A. We follow the second survey, from the fact that wherever lands have been sold—

Q. Would not you in those cases change the original survey,

and run against the decision of the Supreme Court upon that question?

A. I don't think we would, because on those lands, as far as it affected the sales that have been made, we follow the old lines.

Q. Suppose you have two surveys of a township,—you have the original survey, and a subsequent survey,—and there has been land sold under the first survey, a quarter-section say, and, according to the lines made by the second survey, there is a space left, between the description that has been sold and the adjoining quarter-section, that has not yet been sold, and you sell this second piece, what becomes of that intervening piece of land?

A. I have never known of any instance of that kind.

Q. Might not that occur?

A. It might occur on town lines.

Q. You do not pretend to say that the lines of the new survey run exactly the same as the lines of the old survey?

A. I do, in those cases; the other descriptions would be made fractional, and these lines would be made to conform with the original survey, wherever the corners can be found; and if they are not found, they are established according to the old survey.

Q. Then the new survey conforms to the old survey?

A. Yes, sir, as far as affects those sales,—the descriptions of land sold. That is the intention, and we have no means of knowing anything to the contrary, because in these old subdivisions we have nothing but the old surveys, at least, from any of them that were kept. When the re-surveys were made, the old surveys were retained, or destroyed, or something; they are not in the office, and we have to take the re-surveys entirely as authority.

Q. Now, suppose,—to illustrate,—here is a piece of land [showing witness diagrams] that has been sold under the old survey. Making the new survey, the line runs here. Now, in

making your record, which section line would you follow, the old one or the new one?

A. In the first place, when the re-survey is made, they find from this description that the land has been sold; they find those corners, and run on those corners and no others.

Q. Then, I understand that if the surveyor has knowledge that the land has been sold, when he comes to a piece that has been sold he runs upon the same line?

A. He runs upon the same line.

Q. Suppose he does not have the knowledge?

A. I suppose he receives this knowledge from the information of the Land Office. I know that frequently that is done in these re-surveys, from the description of the land that has been sold in the township; unless, as one of those deputy surveyors in the office at one time, Mr. Van Dunham said their orders were, if they could get permission and the consent of those that had made purchases of all of them in a township, they would then correct the surveys and have the surveys corrected throughout; but unless they could get the consent of the parties purchasing, they made the re-survey conform to the old.

Q. Do you know anything about how constantly the other clerks, Mr. Dunham, for instance, was at his work, while he was in the office?

A. Nothing more than I would of any of the rest.

Q. Wasn't he frequently gone in office hours?

A. I thought that he was away more, perhaps, than some of the rest; that is simply from observation.

Q. You observed that fact during the time that he was in the office,—that he was away a good deal,—did you not?

A. I could say he had been; yes, sir.

Q. Did you observe the same in regard to Mr. Clarke?

A. Well, not so particularly in regard to Mr. Clarke. No, I could not say that I had.

Q. Could not say as to Mr. Clarke?

A. He has been away somewhat, but I should not want to say how much, or anything in regard to that.

TESTIMONY OF HEDGES L. PADDACK.

Hedges L. Paddack, a witness, produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. McGowan:

Question. Mr. Paddack, you are the book-keeper in the Land Office?

Answer. Yes, sir.

Mr. McGowan—Mr. President: We ask to withdraw this witness for a few moments, and put on another one who is very anxious to leave, and whose condition is such that he ought to be allowed to testify and go away.

TESTIMONY OF ASA SHATTUCK.

Asa Shattuck, a witness produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. Shipman.

Question. Where do you live?

Answer. I live in Lansing, on Main street.

Q. How long have you lived here?

A. Thirty-two years this spring.

Q. What is your business?

A. I am draying.

Q. Do you know James H. Baker?

A. Yes, sir.

Q. Did you ever have any conversation with him, here in this city, about getting any information against Mr. Edmonds?

A. Yes, sir.

Q. Won't you state what it was?

A. He came to me some four or five or six weeks ago, I cannot tell the time exactly, and wanted to know if I had just as lief go and ask Alice if she had ever seen Mr. Edmonds to her house, or ever seen him drunk. I told him I would.

"Well," says he, "if you will go and find out, you can have ten dollars;" says he, "you might as well make ten dollars out of it as not;" says he, "I am making money out of it, and you might as well make some money out of it."

Q. Making money out of what? Did he say?

A. Well, that is what he said; I don't know what. Well, when I went home,—I live the next door to her,—I went over there—

Q. Never mind that. I am only after the conversation with Mr. Baker,—that's all?

A. Well, that is all I had at that time. I saw him again just at night.

CROSS-EXAMINATION OF ASA SHATTUCK.

Cross-examined by Mr. Manager Cochrane:

Question. You saw him again at night; what then?

Answer. Then he asked me if I had asked her the question, and I told him I had; he wanted to know what she said; I told him that she said he had never been there.

Q. Well, never mind about that;—you performed your duties then?

A. I did all that he asked me to do.

Q. Did you receive your reward?

A. I did not, sir; I never got anything.

Q. About what time was this?

A. I cannot tell whether it was five or six weeks ago. It was soon after the paper came out they call "The Wednesday Night."

Q. Was it while the Legislature was in session here?

A. I think it was while the Legislature was in session.

Q. How long had the Legislature been in session?

A. I could not tell you, sir.

Q. Where were you at this time?

A. I was here on the streets, down near the corner where my stand is,—where I stand for draying.

Q. I understand you that you reside there near Alice McCabe's?

A. Yes, sir.

Q. Have you ever asked Mr. Baker for that ten dollars?

A. No, sir.

Q. Did you do it as an act of friendship to him, or on account of his request and promise of payment?

A. I did it because he requested me to, and said I could make ten dollars out of it.

Q. What is the reason you haven't been after the money? You have performed your duty, you say?

A. Yes.

Q. Now, what is the reason? This was five or six weeks ago?

A. I thought likely if I had done anything, any services for him, if he was going to pay me he would pay it without asking.

Q. You saw him every day?

A. Not every day.

Q. Nearly every day? He is a citizen here?

A. Yes; I have seen him occasionally.

Q. When you perform services for different individuals do you wait until they choose to pay you, generally?

A. Some I do.

Q. Mr. Baker is one of them?

A. Yes, sir.

Q. How came he to go to you; do you know?

A. I do not know anything about it.

Q. You say he made that proposition to you?

A. Yes, sir.

Q. Was that the first that he said to you about it?

A. Yes, sir.

Q. Was that the last that he said to you about it?

A. No; he spoke to me in the evening.

Q. Well, I mean the last at the time that this conversation was had?

A. Yes, sir.

Q. He simply came to you and asked you to make an inquiry of Alice with regard to those facts that you have mentioned?

A. Yes, sir.

Q. Was there anybody present?

A. No; there wasn't.

Q. When he said he was making money out of this matter, and you might as well make some, what matter did he refer to?

A. He referred to—well, I can't state exactly how he did word it.

Q. Well, we would like to know precisely how he worded it; because that is very material.

A. He didn't say exactly; but it was something concerning him and Mr. Porter, I think. I could not tell you, now, the words that he used.

Q. Did he say anything to you about finding out who got up the paper?

A. No.

Q. Did he say anything to you about finding out from whence certain letters were obtained?

A. No, sir.

Q. Or any photographs?

A. No, sir.

Q. What made you think that it was with regard to Mr Edmonds and Mr. Porter? What makes you make that statement?

A. Well, I think he said it was the difficulty between Mr. Porter and Mr. Edmonds,—the difficulty that they had.

Q. Well, then, you haven't stated quite all the conversation Now let us have it?

A. Well, I can't tell how he worded it, or anything about it, but it was something to that effect,—that it was a difficulty between Mr. Porter and Mr. Edmonds.

Q. Yes, sir.

A. I cannot state the words that was used,—anything about it.

Q. Did he say anything about its having anything to do with this impeachment trial?

A. No, sir; I don't think he did; I don't recollect that he did.

Q. Do you know whether any proceedings in regard to impeachment had taken place?

A, I don't,—I cannot say whether I had heard of it or not.

Q. Do you recollect the fact that the members of the Legislature were invited to a circus,—Warner's circus?

A. No, sir, I don't know that any invitation was given to them.

Q. So you could not fix any time?

A. No, sir.

EXAMINATION OF H. L. PADDACK, RESUMED.

Examined by Mr. McGowan:

Question. You had stated that you are book-keeper in the Land Commissioner's office?

A. Yes, sir.

By Mr. Manager Grosvenor:

Question. I would like to ask you whether you were sworn before the Investigating Committee?

Answer. No, sir, I was not.

By Mr. McGowan:

Question. How long have you been employed in the Commissioner's office?

Answer. Since February, 1869.

Q. State whether you were employed in any of the other State offices, previous to that?

A. I was employed in the State Treasurer's office.

Q. For how long?

A. I was in there about five and a half years previous to that.

Q. In all, then, you have been in the employ of the State, in the State offices, about how many years?

A. About eight and a half years,—nearly nine years.

Q. What do you now do, as book-keeper, in the Commissioner's office?

A. The duties are so numerous, I can hardly mention them.

Q. Then we will take them up separately. State whether there has been any change in your duties since the present administration?

A. There is considerable.

Q. Please state what your duties were, previous to the present administration, as book-keeper.

A. It was mostly in keeping the account of the part-paid certificates; charging up the interest; receiving interest; giving credits. The work was mostly with those part-paid certificates that I had to do; not much more.

Q. Has your work, by the new arrangement, been decreased or increased?

A. Very much increased.

Q. Give some of the sources of this increase of work since the present administration?

A. Well, attending to the taxes; that has all been placed in my hands, which I had nothing to do with before, and the making up of lists to send to the county treasurers for taxes, and also for their collecting interest, and their lists that pertain to forfeited land for non-payment of interest, and sending those to the county tresurers; and also notices to supervisors, and taking charge of the forfeited land sales under the law of 1869.

Q. State whether the requirements of that law made it necessary for any new books to be made.

A. Yes; there were new books opened for that purpose.

Q. Such books as had never before that time been kept in the office?

A. No, sir, there was no occasion for it before that.

Q. State whether you now have anything to do with the mail that is received.

A. I have all the letters sent in for interest and taxes to

attend to and answer, and all letters that I reply to have to be copied, and also the mail in the State Treasurer's office in regard to taxes and interest, and of the Auditor General's office,—all have to go through my hands.

Q. Was this any part of your duty previous to Mr. Edmonds' administration?

A. It was not.

Q. State whether you have anything to do with personal applications to pay interest upon penalties?

A. In these personal applications, I have to see that they make their applications in writing before they pay the interest on taxes.

Q. Do you wish to be understood that you have charge of all the mail from the Auditor General's office concerning taxes?

A. Concerning taxes on part-paid lands.

Q. What do you have to do, if anything, in your department as book-keeper, in reference to giving notices of shortage?

A. Whenever money is sent to pay interest, when there is not enough of it, I have to notify the parties of the amount that is still due.

Q. Did you, previous to the present administration?

A. I never wrote any letters.

Q. Can you state how many open accounts you have charge of?

A. They number nearly 8,000, if not more. I cannot state the exact number.

Q. How frequently during each year do you have to go over those accounts?

A. I should judge it would average about once a month.

Q. Twelve times a year?

A. Yes, sir.

Q. How much more labor, if any, is done now, in your department, than was done previous to the present administration?

A. That comes under my supervision? About three times as much.

Q. How many assistants have you?

A. I have one.

Q. Only one?

A. One only.

Q. State whether or not, the labor of that department requires all the time of yourself and assistant?

A. I have been employed there busily, ever since I have been employed.

Q. Any out of office hours?

A. Yes; I have worked considerably out of office hours.

Q. Is that true of your assistant?

A. Yes sir; he has worked some with me.

Q. Who is your assistant?

A. Mr. Bowen.

CROSS-EXAMINATION OF H. L. PADDACK.

Cross-examined by Mr. Manager Huston:

Question. You say you kept the books?

Answer. I kept the books pertaining to the part-paid lands, interest and principal.

Q. You, with the aid of Mr. Bowen?

A. Yes, sir.

Q. While you were book-keeper before Mr. Edmonds' administration, who assisted you?

A. Mr. Knight did that that I do now,—that of taking care of the taxes and sending out the lists to the county treasurers and supervisors.

Q. When you only kept the account of the certificates for part payment, as I understand you, and the recovery of interest, before 1871, did you have an assistant to help you in that particular labor?

A. I did not.

Q. Then while you was book-keeper in 1870 or 1869 you had no assistant? You did all the work that was put under your immediate care?

A. I might say a week at the last end of April that I had some assistance; that is the only particular.

Q. Since you have had these other duties placed upon you, you have had Mr. Bowen to assist you. Is it not a fact that some of the time you have had other aid than Mr. Bowen?

A. I have had a very little within the last two weeks.

Q. Did you not have some last spring?

A. No, sir.

Q. The only assistance you have had, excepting Mr. Bowen, has been the assistance you have had in the last two weeks?

A. Yes, sir.

Q. What are those certificates of part payment?

A. Where parties purchase lands on part payment.

Q. What kinds of lands?

A. Primary school, University, Agricultural College, and salt springs.

Q. When is the interest to be paid?

A. March 3d.

The Presiding Officer—The Senator from the Nineteenth (Mr. Neasmith) sends up the following question, which the Secretary will read:

The Secretary read as follows:

"Why are parties desiring to pay interest on school lands required to make application in writing, and what is done with the application?"

Answer. The letters are filed with the letters in the office so as to know who applies to pay the interest, and then the application is filed with the other letters of the office.

Q. Is it bound with the bound volume of letters?

A. I suppose it will be,—they had not been bound yet.

Q. None of these applications have been bound?

A. No, sir, not since that rule has been established.

Q. How long has that been the rule?

A. I think we commenced that about February.

Q. Last February?

A. Yes, sir; when this present year's interest was becoming paid.

Q. You did not do that, then, last year?

A. No, sir.

Q. Suppose one of those letters or applications, as you state, that was sent to you by mail, referred to some matter besides that of paying interest,—what would be done with the letter?

A. After I had paid the interest that the letter would indicate, I would pass it over to the proper clerk or officer, to take charge of it.

Q. You say you have a good deal to do with the mails. When a letter is received with regard to the business of the office, and it refers to some other matter outside of the business matters, what is the practice with regard to the disposition of that letter?

A. I do not know that I can say. I hardly know what circumstances might come up.

Q. Supposing a man writes a letter and sends it to the office, and the letter refers to the purchase of land, it is directed to the Commissioner, and the letter is an application for land, and in that letter he incidentally wishes the Commissioner "a happy New Year," or inquires after his family, what disposi- do you make of that letter?

A. Such letters do not come under my supervision.

Q. Do you know whether there is any rule with regard to the disposition of them?

A. I suppose they are filed the same as other letters.

Q. Do you not understand that the rule of the office is to file and have bound all the letters with regard to the business of the office?

A. Yes, sir.

Q. Suppose a letter is received at the office, asking to purchase a piece of land upon part payment, and the money is inclosed, and the party inclosing the letter sends along five dollars additional, and says "that is to buy a cigar with," what would they do with that letter?

A. I do not know, sir.

Q. Do you know what the rule is with regard to the disposition of those private letters,—whether they are filed with the other letters and bound, or not?

A. I suppose they are.

Q. You never understood that it was the rule of the office, if a letter referred to another matter, that it should be disposed of in the same way,—thrown into the waste-paper basket, or put into some private drawer.

A. No, sir.

Q. You are pretty familiar with the business of the office?

A. As far as my business goes.

Q. The general business?

A. No, I cannot say that I am with the general business.

Q. You referred to notifying the Treasurer with regard to taxes. What do you mean by that?

A. Not taxes,—interest.

Q. Interest on what?

A. On the part-paid lands. The annual interest on part-paid lands.

Q. Do the county treasurers collect the interest?

A. They do.

Q. And forward it to the Commissioner, or to the State Treasurer?

A. Their duty is to forward it to the State Treasurer. They many times forward to the Commissioner.

Q. They forward to the Commissioner instead of the State Treasurer?

A. Yes, sir.

A. I understand you to say that you furnish also, lists for taxation,—lists of lands?

A. Yes, sir.

Q. Now, what has been your instruction in regard to furnishing to county treasurers lists of lands that have not been patented, and where no certificates have been issued, and the lands have been held for several years upon matured scrip?

A. I have nothing to do with that, sir.

Q. You furnish the lists of swamp lands when purchased, to the county treasurers for taxes?

A. I furnish a list of lands that are part paid.

Q. You have nothing to do with lands that have been sold and paid for in full?

A. No, sir.

Q. Who does furnish that?

A. I mistake. I do furnish that list.

Q. Can you tell me why these 23,000 acres that have been paid for in full, of Edmund Hall's land, and have been so since 1869—you having been the book-keeper all that time, and it was a part of your duty—why you did not notify the treasurers that that land was sold and paid for, that it might be taxed?

A. That department did not come under my supervision until last July.

Q. Why have you not done it since last July?

A. I really cannot tell that I can answer that question now.

Q. The law requires you to send in these lists by the middle of March, so that the treasurers can notify the supervisors of the townships, so that the land can be assessed?

A. Yes, sir.

Q. Why was not that done?

A. I do not know but it was.

Q. Why did you not certify those lists before the 15th of March, 1872?

A. I do not know but they have been,—all fully paid land, and all part paid.

Q. Would you say they have not been?

A. I do not know what his lands are. I take them from the sales-book,—anything that is entered on the sales-book.

Q. It is in evidence that there is some thirty or forty thousand acres of land that has been fully paid for some time. Can you state whether you have not sent the descriptions of those lands to the treasurers of the counties in which the lands are situated?

A. I do not know but I have. I do not know as I have. If they appear in the sales-book as part paid, or fully paid lands, I have sent them. If they do not, I have not.

Q. Do you know whether it is the rule of the office, then, when lands are held upon unmatured scrip, and the scrip has matured, to place those lands upon the sales-book, as you call it?

A. I do not know anything about it. That is a part of the business I do not know anything about.

Q. Do you not know, as a matter of fact, that it is not done?

A. I do not.

Q. Do you not know that, as a matter of fact, the land is not placed upon the sales-book until the certifficate is issued?

A. They are not entered until the certificate is issued.

Q. Then, if lands are paid for, and are allowed to lie, year after year, after issuing a certificate, you do not notify the treasurer?

A. I do not know anything about it until the certificate is issued.

Q. What are these lands that you refer to, under the law of 1869?

A. Land on which interest has not been paid when it became due.

Q. What class of land?

A. On the part-paid lands.

Q. School and College and swamp lands?

A. Yes, sir.

Q. To whom are these letters, that you received and answered usually addressed?

A. To the Commissioner of the Land Office, State Treasurer, and Auditor General.

Q. Any of them addressed to you?

A. But a very few indeed.

Q. Do you hold correspondence with parties dealing with the office, directly, in your own name?

A. But a few.

Q. Did you indulge in that at all?

A. I have some correspondence.

Q. Do you know whether that is allowed with the other clerks in the office?

A. I do not, sir.

Q. You can only answer for yourself?

A. I can only answer for myself.

Q. Why did you write and do the business in your own name?

A. Pertaining to the office?

Q. Yes, the official business.

Mr. McGowan—I submit, that is an assumption. He has not said that he did official business in his own name.

Mr. Manager Huston—I misapprehend, or else the witness misunderstood me. I mean with regard to the business of the office. [To the witness.] Do you correspond with parties in your own name, and not in the name of the Commissioner, in relation to the office business?

Answer. I do not, sir.

Q. You never have indulged in that at all?

A. Not in official business.

Q. Do you get any gratuities in your berth?

A. No, sir.

Q. Never have received any?

A. No gratuities.

Q. What is your salary?

A. One thousand dollars.

Q. That is the only means you have of making money out of your position?

A. No, sir.

Q. In what way do you make any money outside of that?

A. I have correspondents who pay taxes in the Auditor General's Office who do their business through me.

Q. I mean with regard to the business of the Commissioner of the Land Office, or in that office. Do you get any pay from any source?

A. No, sir; I have correspondence with some ones that I do business for in the Auditor General's office—paying taxes—they occasionally wish me to locate land, and want me to attend to the business for them, which I do.

Q. Who is that?

A. Mr. Charles W. Noble of Detroit.

Q. Who else?

A. R. C. Smith of Detroit.

Q. Who else?

A. R. C. Ludington & Co. of Chicago.

Q. Who else?

A. I do not remember any more now.

Q. Do they pay you per year?

A. One of the parties do.

Q. How much do they pay you?

A. He has never paid me anything, but he agreed to pay me $100.

Q. What do the others pay?

A. A percentage on the amount of work done.

Q. What will it amount to, that Smith pays you per year?

A. I do not know that I could say.

Q. In your judgment?

A. I think it might amount to $100.

Q. What does it amount to that Ludington pays you per year?

A. I think about four or five dollars I have received from him.

Q. Noble?

A. About a hundred dollars from Noble,—no, I think more than that; I don't know exactly.

Q. What is this percentage on?

A. On the amount of the transaction.

Q. Transaction in what?

A. In the sale of the land, whatever it may be, or amount of interest, whatever it may be, or amount of taxes.

Q. In the sale of what kind of land?

A. It has been sometimes swamp land, and sometimes school lands.

Q. Will you explain how it is that you engage in selling this swamp land for a percentage, so that the Court will understand what you mean by that?

A. If he makes an application to buy land, at the amount of $200, I get one and one-half per cent commission on the $200.

Q. If he makes an application to do what?

A. If he makes an application, through me, to buy from the State, land which would amount to $200, I get the commission on that $200.

Q. If who makes the application; either one of these parties?

A. Yes, sir.

Q. Can you tell why it is that these different parties apply to the Land Office through you to buy lands, and pay you a percentage, when they can apply directly to the Commissioner, and have a right to apply to the Commissioner, and have their land without paying a percentage. Why is it they do it?

A. I will state that the way I got this correspondence in the first place—

Q. No. Answer my question?

A. I could answer it by doing that.

Q. If you know why it is they apply to you and pay the percentage when they can apply directly to the Commissioner, and buy the land without paying the percentage, I want you to state?

A. I don't know that I can state why they do it. I never asked them, and they never told me.

Q. Do you have an understanding with these parties that you are to watch the books there and make investigation, and ascertain, if you can, if any one's lands were exposed, so that they can apply for the land?

A. No, sir; I do not.

Q. What arrangements, if any, do you have in regard to furnishing them lists of land?

A. I never have furnished them any lists of land.

Q. Do you have any arrangement with them in regard to it?

A. No, sir.

Q. How do you manage their business, then, as a matter of fact?

A. If they wish to purchase any land, they send a description of the land they wish to purchase, and if that land is vacant I pass it to the proper officer to locate it.

Q. Who makes the application at the Commissioner's office?

A. I make the application for them to the Commissioner.

Q. You make the application?

A. Yes, sir.

Q. Do you reserve any lands for them?

A. No, sir.

Q. Are these applications for reservations, or patents?

A. For patents generally.

Q. Does not Mr. Smith ever have any lands reserved?

A. Not through me. I never have had any.

Q. Mr. Noble?

A. No, sir.

Q. Mr. Ludington?

A. No, sir.

Q. The other gentleman you referred to?

A. I referred to no other, I think.

Q. Has not Mr. Smith been a large dealer in matured and unmatured scrip?

A. Not since I have had a correspondence with him.

Q. Then you have never made any applications to have lands reserved?

A. No, sir.

Q. For any of these parties?

A. Not any.

Q. Simply been an application for patents?

A. Simply an application for patents.

Q. What do these parties usually send you? Scrip, or money?

A. Sometimes scrip; most always money.

Q. What directions did they give you in regard to the money?

A. They directed me to buy the scrip and locate the land for them.

Q. Now, do you say that those parties are the only ones you are agent for?

A. That is all that I can remember that I have bought any land for.

Q. That is the only source of profit you have, then, outside of your salary in the office?

A. Yes, sir.

Q. Have you ever been interested in the purchase of any lands, directly or indirectly?

A. I have not.

Q. Ever had anything to do with that?

A. No, sir.

Q. Know anything about the clerks in the office being interested, directly or indirectly?

A. I do not, sir.

Q. Wasn't it the common report in the office that the clerks there were interested? Didn't you so understand it?

A. Oh, I have heard of such things.

Q. Was it not generally understood in the office, before these proceedings began, that there were certain clerks in the office there that were engaged in land transactions?

A. I could hardly say it was a general report.

Q. Didn't you so understand it?

A. I had heard such a thing.

Q. Heard it talked of in the office, hadn't you?

A. I can't say now how I got the information.

Q. Wasn't it also generally understood in the office that there were various clerks that were acting as agents for outside parties?

A. I never understood it so.

Q. Never heard anything about that?

A. No, sir.

Q. And that they had other ways of making money beside that of their salaries in connection with the office?

A. I think I never heard anything of the kind.

Q. What clerks was it reported were engaged in land transactions?

A. I can't say that I heard of any names?

Q. You could not name them?

A. I conld not name them,—no, sir.

Q. Was not Mr. Barnard so reported,—so understood in the office?

A. I have heard that, myself,—I do not know that other people did.

Q. Didn't you understand it and know it as a matter of fact?

A. I did not know it; no, sir.

Q. What do you look over these 8,000 certificates or accounts —what do you look them over every month for?

A. I do not look them over every month. I gave that as about the number of times I do look them over; that is to say, twelve times, a year,—about that number of times.

Q. The interest is not payable except the first of March?

A. The interest is due the first of March.

Q. What is the reason you have to look them over so often?

A. I perhaps might give a detailed statement of how it is done. Commencing in the fall I have to charge up the interest that is due on the first of March. I have to commence that some time in January, and after I go through that, I have to see to getting up a list of all those accounts and send to the county treasurers; and then when the interest comes in and is being paid, I have to give credit for that; and then after the interest paying time is over, after the first of May, I have to go through again and see what accounts have been paid and what accounts have not been paid.

Q. When land is purchased in the office of the Commissioner, who sees to passing the money or scrip into the Treasurer's office. Who has charge of that duty?

A. That is done by the chief clerk, who makes the sale.

Q. Don't you have anything to do with that, when the land is purchased.

A. No, sir, I have nothing to do with that.

Q. I thought you had charge of that duty?

A. I don't have charge of that duty, sir, not in purchasing land.

The Presiding Officer—The hour of twelve o'clock having arrived, the Senate, sitting as a Court of Impeachment, will take a recess until two o'clock this afternoon.

—

Wednesday, P. M., May 16, 1872.

The Senate met, and was called to order by the President *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

The Presiding Officer—When the court took a recess, it was pending the cross-examination of the witness Paddack. The Managers will proceed with their cross-examination:

HEDGES L. PADDACK, RE-CALLED.

Examined by Mr. Manager Huston:

Question. I believe I asked you, just before the Court adjourned, whether if moneys were paid into the Commissioner's Office, they do not pass through your hands when they are to be paid into the Treasury?

Answer. They do generally, when they are entered upon the cash-book.

Q. Then you were mistaken in your statement this forenoon?

A. Yes, sir; I did not quite understand your question in that regard.

Q. Do you keep a book in which you enter the amounts of money which you pay into the State Treasury?

A. I do.

Q. How do you keep the account when you pay for the land in scrip?

A. I have nothing to with that.

Q. There is no record, then, kept in the office, of the payments in scrip?

A. I suppose there it, but I have nothing to do with it.

Q. Do you know of any such book?

A. Yes, sir.

Q. Isn't the book you refer to simply a book where private accounts of individuals are kept?

A. In the scrip-book, do you mean?

Q. Yes; the scrip-book that you have. Isn't that a book where merely the personal accounts of individuals are kept, such as Preston's and W. A. Barnard & Co.'s and others?

A. Yes, sir; that is one of the books.

Q. Is there a book kept in the office, that is one of the records of the office, in which you entered the amount paid for lands as they are sold in scrip?

A. Yes, sir; there is such a book.

Q. Who keeps that book?

A. That is kept by the chief clerk.

Q. Then you only keep that in which the money is entered?

A. In which the cash transactions are made.

Q. State whether there is any money paid in at the present time for swamp lands?

A. Yes, sir; there is some.

Q. Isn't there, where the land cannot be bought in any other way except for cash?

A. I suppose it is.

Q. There is a certain quantity of swamp land that cannot be bought for scrip?

A. Yes, sir.

Q. If bought at all, they must be bought with cash?

A. Yes, sir.

Q. And those are the entries that you speak of as being made with money?

A. Yes, sir.

Q. Do you know when the rule was changed from paying in scrip, when money was sent for that class of lands that could be entered in scrip?

A. I do not, sir.

Q. You do not know anything about that?

A. No, sir.

RE-EXAMINATION OF HEDGES L. PADDACK.

Re-examined by Mr. McGowan:

Question. Do you know that such a change has been made the practice of the office?

Answer. I do not, sir, of my own knowledge.

Q. You say there are a certain class of swamp lands that must be bought with money, if bought at all?

A. Yes, sir.

Q. Do you know that these are the only lands that are now bought with money?

A. I do not, sir.

Q. There may be occasional instances, where other swamp lands are purchased with money?

A. There may be. I am not very well versed in that department.

Q. When was the change made in the practice of the office, with reference to these applications, to pay interest and penalty.

A. That was made, I think, in February,

Q. What was the necessity of making that regulation?

A. So as to have a perfect record of all the transactions of the office.

Q. Did any mistakes occur previous to that, for want of such a record?

A. I do not call to mind any now; there may have been.

Q. In doing what you said you did for these parties that you corresponded with, did you do anything more than your duties would have required you to do, had you not made any arrangement with them?

A. No, sir.

Q. If they had sent the money with the descriptions of the land, and asked you to enter it, would not it have been your duty, as a clerk in the office, to have done so?

A. It would, sir.

Q. Where have you done the most labor under the arrangement with the correspondents of yours,—in the Commissioner's office, or in the Auditor General's office?

A. In the Auditor General's office,—nearly the whole of it.

Q. It is a fact that you have only done a small portion of the work in the Commissioner's office?

A. Very little of it.

Q. I believe you stated you had no interest there or in there, in the purchase and sale of lands?

A. Not any, sir.

RE-CROSS-EXAMINATION OF HEDGES L. PADDACK.

Examined by Mr. Manager Huston:

Question. You say you have no interest. You have an interest so far as your percentage goes, do you not?

Answer. I had that interest, certainly; none in the land.

Q. Did you have any interest in the profits, after the State had sold the land to these parties?

A. No, sir, not any.

Q. Do you remember a draft being sent to the office, drawn upon some bank in Port Huron, some time last fall, to purchase some swamp lands?

A. Not to my recollection. I do not remember any.

H. C. CLARKE, RECALLED FOR THE RESPONDENT.

Examined by Mr. McGowan:

Question. Do you remember the occasion of a railroad excursion, last September?

Answer. I remember there was one.

Q. To Detroit?

A. Yes, sir.

Q. Where were you the day previous?

A. In Lansing.

Q. About your usual business in the office?

A. I think so.

Q. State whether there was anything unusual going on in town, the day before the excursion.

A. Yes, sir.

Q. What?

A. There was a circus.

Q. State whether you went to the mineral well the morning of the excursion.

A. Yes, sir.

Q. Who went with you?

A. Capt. Edmonds, I think; I know he did.

Q. Where did you start from?

A. From the Lansing House.

Q. When did you start from the Lansing House?

A. In the morning.

Q. About what time?

A. Before breakfast. I think about six o'clock, or a little after.

Q. State where you went to and what you did.

A. I went up to the mineral well, or rather to the bank of the river this side of the mineral well, and he came back. I waited there awhile and went over to the mineral well, and then I came back.

Q. Why did you wait there a while?

A. I could not get across when I first went there.

Q. The boat was on the other side?

A. Yes, sir; the ferry-boat that crosses there was on the other bank, and there was nobody to bring it over.

Q. He left you and returned back?

A. Yes, sir.

CROSS-EXAMINATION OF H. C. CLARKE.

Cross-examined by Mr. Manager Cochrane:

Question. How came you to be up so early that morning?

Answer. It was a habit that I got into. I got up early most every morning and went over to the mineral well quite frequently.

Q. How high was the sun when you started?

A. I do not recollect about that, sir.

Q. How came you to meet Capt. Edmonds that morning?

A. I think I met him on the stairs going down,—he was an early riser, anyway.

Q. What time does he generally rise?

A. I guess soon after the sun rises. He is always up early.

Q. Is that his universal habit?

A. As far as I know.

Q. You were there with him, and I understand you are a pretty early riser.

A. I did not board with him; I do not know that I am a very early riser. I was taking the water, then, more particularly for my health.

Q. How often, during that month, do you think you had gone down to the spring?

A. I guess, two or three times a week.

Q. What times in the day did you generally go?

A. Generally before breakfast, and sometimes before dinner and after tea.

Q. How many times did you go that month?

A. I do not know how many times; I went there frequently

Q. Were you boarding at the Lansing House?

A. I was at that time.

Q. Was it a cloudy, or clear day?

A. I do not recollect about the weather, particularly.

Q. Why do you recollect that this was the day?

A. My attention was called to it two or three days after the occurrence took place.

Q. By whom?

A. Well, I do not know that I could say. Some one. I can state how it was called up.

Q. Well, how?

A. I heard the report in some way that the Commissioner was seen to come out of this house in the morning, and the report said that he staid there all night, and when I heard the report I said at once it was false, for I saw him in the morning.

Q. Who did you tell so?

A. I don't know; it was somebody in the office,—some of the boys in the office, that I heard tell about it.

Q. Do you recollect who?

A. I don't recollect who it was.

Q. Did the Commissioner say anything to you about it?

A. He never said anything to me about it until after this investigation.

Q. What did he say then?

A. He asked me if I remembered of the occurrence of going up to the mineral well in the morning, and I told him I did.

Q. Will you state whether you went there frequently with the Commissioner, or any number of times?

A. Oh, yes; very frequently.

Q. Had you ever gone with him at this time in the day?

A. Yes, sir.

Q. Before breakfast?

A. Yes, sir.

Mr. McGowan—Does the Manager mean to the mineral well.

Mr. Manager Cochrane—Yes, sir.

Mr. McGowan—They turned back; this time, they didn't go to it.

Mr. Manager Cochrane—I mean to the mineral well, or towards it.

GEORGE F. GILLAM, RECALLED FOR THE RESPONDENT.

Examined by Mr. McGowan:

Question. It was stated by Mr. Potter, the clerk in the Road

Commissioner's office, when he was a witness here, that you had furnished him a list of some lands which he reserved upon Edmund Hall's contract. What are the facts concerning it.

Answer. Well, I furnished such a list.

Q. How much?

A. Well, he said he reserved five "eighties" that I handed him. Whether I handed him any more or not, I can't say; I am not positive on that. Mr. Hall was in the office one day, and told me if I found any forfeited lands, or came across any, he would like to have me hand them in to Elder Potter—some of them, and I told him I should do so, and I handed him in some descriptions, from which I think he reserved five "eighties."

Q. State whether that was an exceptional case, or whether you only furnished such information to Mr. Hall?

A. No, sir; I cannot say that it was an exceptional case. As I have stated before, I furnished Mr. Ripley a list, and I furnished information to several parties, in fact, that would be limited only by the number of inquiries. I always endeavor to furnish information when I am requested to.

Q. Was there any special arrangements between you and Hall that you should furnish a list of lands to Pottter for him?

A. Nothing more than I have stated. He said he would esteem it a favor if I would hand in any such descriptions, and I did so.

Q. Was there any arrangement by which you was to be compensated from Hall for that business?

A. No, sir; I never asked anything ,anyway.

Q. Did you ever agree to take anything from him?

A. No, sir.

Q. Did you ever take anything from him for your services?

A. No, sir.

Q. Now, will you state how Ripley came to get the statement from you of Obed Smith's reservation?

A. As I stated the other day, he was in the office one day, inquiring about some lands in a town. There was some lands

marked up to Obed Smith. He asked for the lands, all not in that town, and I told him I thought Obed Smith was trying to hold more lands than he could cover; and he went to work and looked it up, and took a list of the lands and went home, and in a few days he made an application for them.

Q. State whether they were reserved up to him on that application.

A. Well, sir, he did not have credit enough to hold them all.

Q. Ripley had not?

A. No, sir.

Q. Was any portion marked to him?

A. My impression is that Mr. Barnard marked all the lands in the first place,—put a mark on them. Ripley had applied for them simply, and told me to look up his account; and I went to work and looked it up, and found that Ripley had not credit enough to hold all the land. That was the way of it, I believe.

Mr. McGowan—I will ask the Honorable Managers for the application of Ripley, and the telegrams attached, which we handed to you.

Question. Mr. Gillam, Mr. Potter also stated, if I recollect correctly, at the same time, that he was instructed by Mr. Hall to allow you and one or two other clerks then named to have lands from the list which he had reserved up. State whether there was any such arrangement made between you and Mr. Hall,—that you were to have any portion of his lands.

Answer. No, sir; there was not.

Q. Was there any talk between you and Hall to that effect that you were ever to have any portion of his lands?

A. No, sir.

A. Did you ever get any of the land that you reserved up on Hall's contract?

A. No, sir; never had any interest in any State lands, while I have been in the office, at least; never bought or sold any, or received anything for buying or selling any, or for reserving any, or furnishing lists.

Q. State whether you ever had any talk with the Commissioner about this rule preventing clerks from acting for outside parties, in official business, in the office?

A. Yes, sir.

Mr. Manager Cochrane—That is not competent, it seems to me.

Mr. McGowan—It is merely preliminary.

Mr. Manager Cochrane—Let us know what the rule is, and let the Senate judge.

Mr. McGowan—I am not going to prove the rule.

Mr. Manager Huston—You want to prove the Commissioner's statement?

Mr. McGowan—No; I do not propose to do that; I simply propose to get at the circumstances that led him to have that talk. The rule is already in evidence.

Mr. Manager Huston—You are asking what the Commissioner said, in substance.

The Presiding Officer—The Chair understands the question simply to be if the witness ever had any conversation.

Mr. McGowan—Yes. I do not ask him what the conversation was.

The Presiding Officer—Of course, it would be answered by yes or no.

Mr. Manager Cochrane—I fail to see, Mr. President, what that has to do with the case, what private communications the Commissioner has had with Mr. Gillam, or any other clerk, or any other man as to what has not been the rule. The question is what the rule is.

The Presiding Officer—The counsel for the respondent says that it is simply preliminary to get at the facts that led to that conversation, and not what the conversation was.

Mr. Manager Cochrane—It is not very material. I do not feel like making objection and calling upon the Senate, or, hardly, calling upon the President.

The Presiding Officer—It is preliminary. The question may be answered.

Question. State whether you had any such conversation with the Commissioner.

Answer. Yes, sir.

Q. When?

A. It was the latter part of last summer, or the forepart of fall.

Q. Now, will you state the circumstances which led to that conversation,—the facts?

A. Well, I asked the Commissioner, one day, what the scope and purport of the rule, in regard to agency, was,—clerks acting as agents for other parties.

Q. What I want to get at, Mr. Gillam, is why you asked that question,—what led you to ask it?

A. I don't know as I can state, any more than for information. I wanted to know what the extent and scope of the rule was, and so I asked the question.

Q. State whether you were aware of the fact that there had been offers made to various clerks in the office to pay them for work done in the office?

A. Well, it is not an uncommon thing at all, for contractors or parties getting any information in the office to ask "What is the damage?" or some such remark as that; and I recollect that one man wanted I should furnish him,—make him a special favorite,—in furnishing information and he would pay me for it.

Q. Now, I ask you what the Commissioner said to you when you asked him with regard to the scope of the rule?

Mr. Manager Cochrane—Now, I object.

Mr. McGowan—We want to ascertain what the rule of the Commissioner was as to that practice.

Mr. Manager Cochrane—It seems to me, the true way to get at that is to know what the rule is. We have not, as yet, heard precisely what that rule is; and it is not before the Senate, precisely what it is. Now, they propose to put in the Commissioner's construction of the rule, without showing the

rule. If the Commissioner adopted any general rule, which was brought to the attention of the clerks, that may be a matter which is very material in this case. It seems there was some conversation between the Commissioner and the witness. The Commissioner may have said he would construe it one way, and another person having as good a right to construe it as he, might say he would construe it another way; what materiality could that have to this case? The question would simply be, did he promulgate a theory there which the clerks would fully understand; and it is for this Senate to judge whether such a rule was promulgated and published there.

The Presiding Officer—Testimony has been given with reference to a rule,—whether to this particular point or not, the Chair is unable to tell.

Mr. Manager Cochrane—I wish to say one word further. It seems that the Commissioner has a series of printed or written rules placed in the office where they are open to the observation of all, and it may be this is one of those rules, and if so we would like to see it.

Mr. McGowan—This is one of the rules. It is upon the records of this Court. It was a part of the answer set *hæc verba*, and it has been talked of in the examination of witnesses, more or less. I do not know exactly now; but I propose to show by the witness what the practice of the Commissioner's office was, as dictated by the Commissioner himself,—not alone by the literal wording of the rule, but his construction of it in cases of this kind,—whether he did allow the clerks, in any form or shape, to do official business, and take pay for it in any way.

The Presiding Officer—The Chair recollects that some evidence was given, that some witnesses testified, as to some rules being laid upon the clerks' desk,—each of their desks. The Chair thinks it was in the testimony, but is not certain about that. The Chair has no recollection that there has been any rules offered in evidence.

Mr. McGowan—The list of rules in my hand I can identify by the witness, and offer them in evidence now if it will save any talk with regard to as ing the witness the question.

Mr. Manager Cochrane—We will not object to the rules being offered in evidence.

By Mr. McGowan:

Question. Mr, Gillam, will you look upon that paper and tell us what it is?

Answer. This is a printed list of rules, among which is the rule I have referred to with reference to clerks acting as agents for other parties.

The Presiding Officer—The Senator from the Twenty-fifth sends to the Chair the following question, which the Secretary will read:

The Secretary read the question, as follows:

"Is it the rule or the practice of the Land Office when it appears by the books of the office that there is more lands reserved than the contractor has credit, to strike out a part of his reservations without the knowledge of the contractor, or do you give the contractor notice of the fact and allow him to elect which he will retain?"

Answer. It is the usual practice to strike off the last of the list, if we are positive that he cannot hold it. It often happens that something may arise where a man may hold land when it is not proper that he should; it is usual to give him some notice before reserving the land to the market absolutely

Mr. Manager Cochrane—In making the objection which we do, to the introduction of this testimony, perhaps I may as well read this portion of the rule.

The Presiding Officer—The Chair understands that the printed rules, all of them, are now offered in evidence, and received.

Mr. Manager Cochrane—Yes, sir; we have no objections to that.

The following rules—exhibit NN—are received in evidence:

[EXHIBIT NN.]

RULES AND REGULATIONS OF THE STATE LAND OFFICE—FOR THE INFORMATION OF EMPLOYES ONLY.

Office Hours from 8 A. M. to 12 M., and from 1½ P. M. to 5 P. M.

Clerks will be at their posts *promptly*, and devote their time, during office hours, *exclusively to Office Business.*

Any information sought will be cheerfully given, and all business matters carefully attended to, by the Commissioner or Deputy; but no employe in the office will be allowed to act as agent for other parties, or transact any business in the office, except in the regular discharge of his duties.

Habitual and loud conversation must not be indulged in.

Smoking in the office is prohibited.

Leave of absence, not to exceed four weeks in any one year, will be granted to clerks, at such times as will least interfere with the business of the office.

CHAS. A. EDMONDS, *Commissioner.*

Mr. Manager Cochrane—"But no employe in the office will be allowed to act as agent for other parties, or transact any business in the office except in the regular discharge of his duties." Now the language of that is perfectly plain, and it would be an unheard-of practice to allow a party in any case to create testimony in favor of himself as to what his construction of a rule of law might be. Supposing the question arose as to the construction of an act of the Legislature, would it be competent to call in parties who were present when the Legislature was in session—even members of the Legislature—and ask them what was intended by the passage of that law, or what was to be the construction of that law? It is a principle laid down, I believe, everywhere, that every law must construe itself. Now, it may be possible in this case, that Edmonds, in construing the section I have read, limited it only to certain classes of business, and held that they might do all other kinds of business.

It would be competent for the respondent to show what the practice of the office was, under this rule. That will give the construction to it; but to admit that what the Commissioner said, was to be the construction of this rule, is entirely another thing. That is a matter which might be changed every day, and it might be very inconsistent with the language here; but what the practice was, under this rule, would be something else. The practice itself might vary, and show that a new rule had been introduced.

Mr. McGowan—One word with regard to the question under discussion. In point of time, as regards the conversation between the Commissioner and the witness, the Commissioner could not be charged with manufacturing evidence in his own behalf, for any trial. It cannot be said that anything of that kind was thought of.

In the next place, I suppose the practice of the office is determined very largely by the word of the Commissioner, who is the legal and proper head of the office.

Now, we simply want to know whether he insisted upon that rule or not in its literal construction and in its full scope, as the words would indicate in the rule. There has been some evidence put in here tending to show at least that that rule has been violated; and if it has not been the literal claim, on the part of the Managers, that the Commissioner was knowing to the violation of that rule, it has been implied that he knowingly allowed the violation of it in his office. And to rebut that, is the purport and object of the examination on this point.

Mr. Manager Cochrane—Then put the direct question to him, whether he knew of a violation of the rule.

Mr. Shipman—Mr. President, I do not wish to be out of order, but it seems to me that as a matter of justice and right, this question ought to be allowed to be put. So far as I recollect, there is no evidence that brings to the notice of the Commissioner any violation of this rule. Now here was a case that was brought directly to his attention, and we wished to know

what he did in regard to it, and what he said, whether he forbade him to act as agent or not. It seems to me it is admissible testimony.

Mr. Manager Cochrane—I have no objection at all to their asking him that question. But that is not the question at all that they propose to ask him. They propose to ask what his construction of this rule was.

Mr. Shipman—That is the object of the question.

Mr. Manager Cochrane—Well, then, ask it if that is the object of the question; ask him whether he forbid him to act as agent.

Mr. McGowan—In that form, the question simply implies that the witness asked permission to act as agent, which he did not. He simply stated the case that came up, and they then had a talk, and that the Commissioner at that time insisted upon the rule being enforced, not only with the witness, but with all the employes in the office; and that was a case that was brought home to the Commissioner, that a certain man had made propositions, as the witness has already stated, and he spoke to him of that instance, simply giving it as an instance, and asked him whether his rule would cover a case of that kind. We do not wish to ask a question that will imply that this witness had been negotiating a bargain with somebody else to act as his agent for a compensation, because that was not the fact.

The Presiding Officer—The Chair is not entirely certain that, under strict rules, the question would be admissible; but, under the broad scope that has been allowed by the Senate, I will allow the question to be put, and take a vote of the Senate if it is required.

Mr. Manager Cochrane—We will submit to the decision of the Chair.

By Mr. McGowan:

Question. Will you state what the conversation was in regard to the rule?

Answer. I asked him what the scope and purport of the rule

was, and he said that it was this, that he did not wish his clerks, and he would not allow his clerks, to act as agent for other parties for compensation; that they could furnish information, of course, and he desired them to, all the information in their power, in their line of duty or business, but not for pay. That was the substance.

Q. Did you say anything to him about any special case.

A. Yes, sir, I spoke to him of one man that offered to pay me for a special information.

Q. The case you have mentioned?

A. Yes, sir.

The Presiding Officer—The Senator from the Twenty-fifth (Mr. Waterbury) sends up another question in connection with the question that he sent before, with regard to the contract. The Secretary will read:

The Secretary read the question, as follows:

"Did you do so in the case of Obed Smith's reservations, —that is, strike out his last reservations?"

Answer. Well, no, sir; they were never stricken off. It was fully decided that he can hold them, and the matter was held in abeyance, until the final decision. Never were stricken off, because he insisted on holding them, and claimed he could, and submitted the matter to the Attorney General, and of course his name was left on.

Q. Then what did you do with Ripley's application?

A. The same way; his name was kept on also, until the final decision, and then his name was taken off.

Q. Then there were two sets of marks upon those lands?

A. Yes, sir.

Q. Mr. Smith's and Ripley's at the same time?

A. Yes, sir.

Q. And on a portion of them Mr. Smith's and Mr. Hall's?

A. Yes, sir.

Q. Do I understand that any of these lands, that Mr. Hall had reserved, had already been reserved by both Ripley and Smith?

A. How is that,—I do not understand?

Q. Were any of these lands, that were marked reserved to Smith, and also to Ripley, were any of those also marked to Hall as reserved?

A. Yes, sir.

Q. The same lands?

A. Yes, sir. Those that Hall applied for were marked to Hall.

Q. Did Hall apply for any that was marked to Ripley?

A. No, sir, I think not.

Q. Then there were but two applications for any one piece of land?

A. No, sir.

Mr. McGowan—Have the Managers found the application that I asked for?

Mr. Manager Huston—If we have it, it must be at our room.

Mr. Manager Cochrane—Mr. McGowan, my co-Managers are not fit to keep a land office; they do not keep the papers in order.

The Presiding Officer—[To counsel for respondent.] Do you wish to have it here, gentlemen, at this point?

Mr. McGowan—I wish to introduce it with this witness, but I have a further examination of him; I should have introduced it at this point had I had it.

Mr. Manager Huston—I will go and look for it.

By Mr. McGowan:

Question. It has been in evidence that some contracts have at different times been over-reserved,—that is, more land reserved upon a contract than what the contract called for,—will you tell how that came to be done, specifying any cases that may be within your knowledge.

Answer. Obed Smith's contracts, as has been said, were over-reserved, or appeared to be,—that is, one of his contracts, or, at least, one set of contracts. All his contracts were figured together, excepting the contract that he bought of Bathay, or that Mr. Bathay assigned to him, and he sold some of his scrip

and that exposed his lands. I found, in first figuring up the contracts when I went into the office, I found a few contracts that were over-reserved, and the books showed that they had been ever since Mr. Edmonds' administration commenced. There were a few of those.

Q. Have there been any contracts over-reserved during Mr. Edmonds' administration,—that is, where the over-reservations had been made during his administration?

A. No, sir.

Q. Not any?

A. Not that I recollect of; never was intended to be. I kept charge of that, and never intended to have any over-reserved, and I don't recollect of any being done so through any mistake or error.

Q. I understand you to say that Smith had reserved his contracts full,—those first ones that were put together?

A. Yes, sir.

Q. And then had sold part of his scrip?

A. Yes, sir.

Q. Thus leaving on the book more lands reserved than he had contracts for after selling his scrip?

A. Yes, sir.

Mr. Manager Huston—I suggest that you let the witness state.

Mr. McGowan—He did state, but I wanted to get it in shape so there would be no misunderstanding about it.

Witness—He sold some of his matured scrip and that exposed his land.

Q. State whether you have any recollection of any other contracts being so over-reserved?

Answer. I will state, also, when I first figured up Mr Smith's contract I found it was a little more than full; that there was a few descriptions—

Q. How did that come? Do you know?

A. It came, I suppose, the same as others that I might men-

tion that I found in that condition. That is, they had been so for some time. The books had not been kept up in shape to tell much about it,—the reserve-book had not.

Q. You say that the Bathay contract, after it was assigned to Smith, was kept separate from his other contracts?

A. Yes, sir.

Q. Was it to the last, kept separate?

A. It was, until he finally held his lands, and he held his lands by uniting the two,—uniting the Bathay contract with the other, finally.

Q. Explain how that was,—how, by uniting them, he could hold the over-reservations?

A. He had a credit on the Bathay contract, enough to cover what he lacked on the Duncan and Alpena contract, as it was called, or contracts, so that by putting the two together, he got his lands.

Q. When you took charge of the contract-books, were there any contracts in existence that were not on those books?

A. Yes, sir, there were.

Q. How many?

A. I found forty-five different contracts that had never been entered on the reserve-book.

Q. Did you put them on?

A. They were not completed when his term commenced; the most of them were not completed when I went into the office, and many of them had been reserved on; eighteen contracts had been reserved on,—yes, sir; I put them on.

Q. State whether these forty-five contracts were all in existence when Mr. Edmonds came into office?

A. Yes, sir.

The Presiding Officer—The Senator from the Twenty-fifth (Mr. Waterbury) sends the following question:

The Secretary read the question, as follows:

"Why did you accept his order for scrip when he had reserved to the full amount of his contract."

Answer. These acceptances of scrip I could not account for, —anything about it. The scrip was sold, and exposed the land. You will have to ask some one else that question.

Q. Do you know of any orders for scrip being accepted in Mr. Edmonds' administration after the contracts were reserved full?

A. I say that the scrip was sold on this Smith contract; and for what reason, I don't know anything about it.

Q. Had the office been notified of that sale?

A. I could not say. The scrip sales I could not give any information about.

Q. Have you the reservation-book there?

A. Yes, sir.

Q. Before we go to that book: I think it was stated by Mr. Smith, in his testimony, that the office had furnished him a number of statements of his account, and they all conflicted. Have you the accounts,—the statement of accounts furnished Mr. Smith?

A. Yes, sir.

Q. How many are there?

A. There were several statements. They are not all of the same character,—not all relating to exactly the same thing.

Q. How many are there that relate to the Bathay contract?

A. There are three that I have a copy of, that are statements of the contract,—the full contract.

Q. State whether you have given those statements an examination?

A. Yes, sir; I have.

Q. And compared them with the records?

A. Yes, sir.

Q. Now, will you state whether there is any conflict in those statements?

A. I cannot discover any. They seem to be,—I think they are,—correct.

Q. Have you any statement, then, that was furnished to Mr. Smith ?

A. Yes, sir.

Q. What are they?

A. I furnished him statements of the scrip account, showing how each warrant that he had drawn in his favor, had been paid, or that had no contract, altogether, but simply his matured credit. He wanted a statement of credit, to show how it was, and each order, and all about it.

Q. Have you compared that statement?

A. No, sir; I have not compared that since this trial commenced, but he looked it all over, and said it was all right.

Q. Did you make it?

A. Yes, sir.

Q. Did you make it from the record?

A. Yes; from the warrant book.

Q. Is it correct?

A. Yes; I have no doubt but what it is.

Q. What other statement was furnished Mr. Smith ?

A. One of the "Duncan, Alpena, and Sauble" contracts.

Q. Showing any over reservations?

A. It shows a deficit of $2,197.89.

Q. Do you mean by deficit, that he had overdrawn the contract to that amount?

A. Yes, I mean, the contract was behind to that amount.

Q. When was that statement made?

A. November 23d, 1871.

Q. That was the condition of the contract at that time?

A. Yes, sir.

Q. Have you any other?

A. No, sir; I have no other, only these three on the Bathay contract: one November 17th, another December 28th, and another April 17th, last.

Mr. McGowan—I desire to state, Mr. President, that I received these papers which I handed to Mr. Gillam, from the

hands of Mr. Smith, in the presence of one or both of the Managers present, he stating that they were the statements made to him by the officers. I would prefer to have them introduced in evidence here, rather than to identify them any further, if there is no objection.

Mr. Manager Huston—There is no objection, I believe.

The Presiding Officer—They are received as a part of the evidence in the case, but not read.

The Secretary marked the papers offered "OO."

The following are copies of the same:

OBED SMITH—DUNCAN, ALPENA AND SAUBLE ROAD.

1871.		Cr.	
Nov. 28.	By balance unmatured on Contract No. 4		$1,250 00
	" " on Warrant No. 840		402 16
	" " " " " 841		125 00
	" " " " " 842		787 50
		Dr.	
Nov. 23.	To balance due Wm. Jenney on order	$250 00	
	" lands received, 3,610.04	4,512 55	
	By balance		$2,197 89
		$4,762 55	$4,762 55
		Dr.	
Nov. 28.	To balance	$2,197 89	
Dec. 6.	" sold to J. W. Hill	79 79	
		Cr.	
Dec. 28.	By error found		$400 00
	" balance		1,877 68
		$2,277 68	$2,277 68

OBED SMITH, ASSIGNEE OF T. BATHAY.—CONTRACT No. 4.

Midland, Houghton Lake, and Traverse City Road.

1871.		
	Amount of contract	$42,062 50
Nov. 17.	" paid on contract	21,169 50
		$20,893 00

Cr.

Nov. 17.	By balance unmatured		$90,993 00

Dr.

Nov. 17.	To lands reserved, 720 acres	$900 00	
	" " " by T. Bathay, 7,173.69 acres	8,967 11	
	" " " by C. Hewitt, 3,946.18 acres	4,932 66	
	" balance due D. Preston & Co., on order	1,788 00	
	" order to A. Pack & Co.,	750 00	
	" " E. S. Porter	1,250 00	
	" " T. Bathay	1,000 00	
	" " T. Luce & Co.,	1,250 00	
	" balance	55 23	
		$90,993 00	$90,993 00

Cr.

	By balance	$55 23
Dec. 5.	" D. Preston & Co.,	1,788 00
	" T. Bathay order	1,000 00

Dr.

Dec. 2.	To order to Wm. B. McCreary, 1,200 acres	$1,500 00	
" 8.	" " A. Pack & Co.,	1,000 00	
		843 23	
		$2,843 23	$2,843 23

OBED SMITH, ASSIGNEE OF T. BATHAY.—CONTRACT No. 4.

Midland, Houghton Lake, and Traverse City Road.

1871. Dr.

Dec. 28.	To lands reserved, 720 acres	$900 00
	" T. Bathay, 6,909.86 acres	8,637 32
	" C. Hewitt, 3,832.24 acres	4,790 30
	" order to E. S. Porter	1,250 00
	" " T. Luce & Co.,	1,250 00
	" " Wm. B. McCreary	1,500 00
	" " A. Pack & Co.,	1,000 00
		$19,327 62

1871. Cr.

Dec. 28.	By balance unmatured	$18,026 62
	" " due on matured	1,116 18
	" "	184 62
		$19,327 62

Dr.

Dec. 28.	To balance	$184 62

Cr.

Dec. 28.	By T. Bathay	$805 77

OBED SMITH'S ACC'T, ASSIGNEE OF T. BATHAY.—CONTRACT No. 4.

Midland, Houghton Lake and Traverse Bay Road.

DR.

1872.		
April 17.	To lands reserved by T. Bathay, 6,786.98 acres, 102s	$3,461 28
"	" C. Hewitt, 2,596.97 acres, 10s	3,246 21
"	" by self, 888.90 acres, 10s	1,048 63
	To order, A. P. & Co	1,000 00
"	W. B. McCreary	1,500 00
"	E. S. Porter	400 00
"	T. Luce & Co	312 50
To balance		1,994 42
		$17,393 00

CR.

1872.		
Sept. 17.	By amount unmatured	$15,276 82
" 17.	" due on matured	2,616 18
		$17,893 00
Cr. by balance		1,994 42

OBED SMITH'S ACCOUNT—CONTRACT NO. 1.

Duncan, Alpena, and Sauble Road.

1869.	DR.	1869.	CR.
Oct. 11—Paid Hewitt & Co	$3,350 00	Oct. 9—By warrant	$3,350 00
Oct. 27—To Hewitt & Co	$911 21	Dec. 10—By warrant (508)	$1,750 00
Dec. 10—To W. A. Butler & Co	838 79		
	$1,750 00		$1,750 00
1870.		1870.	
To Cyrus Hewitt (order).	$10 00	Aug. 11—By warrant (608)	$2,250 00
Sept. 29—To Geo. N. Fletcher	422 47		
Oct. 31—To A. W. Comstock	50 00		
Nov. 1—To Cyrus Hewitt	400 00		
Nov. 1—To J. Ryan	377 53		
	$2,250 00		$2,250 00
Oct. 6—To D. Preston & Co	$1,000 00	Sept. 10—By warrant (621)	$1,500 00
Oct. 21—To T. Luce & Co	484 90		
Nov. 2—To J. Ryan	4 17		
Nov. 14—To S. L. Carpenter	10 93		
	$1,500 00		$1,500 00

1871.	Dr.		Cr.
Mar. 4—To Wm. Jonney	$950 00	Dec. 9—By warrant (700)	$987 50
Mar. 1—To Pack & Porter	150 00		
May 18—To D. S. Wheelock	85 16		
June 1—To D. Preston & Co.	452 34		
	$987 50		$987 50
June 1—To D. Preston & Co.	$875 00	Dec. 9—By warrant (701)	$875 00
June 1—To D. Preston & Co.	$321 66	Dec. 9—By warrant (702)	$562 50
June 15—To H. R. Morse	200 00		
June 24—To J. A. Case	40 84		
	$562 50		$562 50
1869.		1871.	
May 2—To L. M. Mason	$150 00	Oct. 2—By warrant (841)	$125 00
1871.			
Dec. 28—To Thos. Wood	50 00	Oct. 2—By warrant (842)	987 50
Dec. 28—To Obed Smith	350 00		
	$550 00		$11,787 50

Due $512 50.

CONTRACT NO. 2.

1870.		1870.	
July 28—To Geo. N. Fletcher	$721 71	July 18—By warrant (567)	$1,000 00
Aug. 8—To J. N. Spratt	50 00		
Sept. 8—To S. L. Carpenter	188 69		
Sept. 27—To A. R. Richard	481 80		
Nov. 2—To A. W. Comstock	150 00		
Nov. 2—To John Ryan	8 80		
	$1,000 00		$1,000 00
Sept. 29—To Geo. N. Fletcher	$400 00	Aug. 11—By warrant (603)	$400 00
	$2,000 00		$2,000 00

OBED SMITH, ASSIGNEE OF T. BATHAY.—CONTRACT No. 4.

Midland, Houghton Lake and Traverse City Road.

Dr.

1871.		
Dec. 28.	To lands reserved, 720 acres	$900 00
	" " 6,909.86 acres, by T. Bathay	8,637 33
	" " by C. Hewitt, 3,832.24 acres	4,790 30
	To order to E. S. Porter	1,250 00
	" " T. Luce & Co.	1,250 00
	" " Wm. B. McCreary	1,500 00
	" " A. Pack & Co.	1,000 00
		$19,327 63
	To balance	184 63

Cr.

1871.		
Dec. 28.	By balance unmatured	$18,026 82
	" balance matured	1,116 18
	" balance	184 63
		$19,327 63

B. T. BATHAY.

Due O. Smith, on Warrants:

No. 840	$72 87
" 841	125 00
" 842	337 57
" 868	151 34
" 869	964 84
" 902	840 00
" 906	1,750 00
	$4,291 12

Duncan, Alpena and Sauble Road.

CONTRACT No. 1.—Smith & Cicero, dated July 28, 1869; approved July 29, 1869. Expired Dec. 1, 1869; extended to Sept. 1, 1870,—all paid.

CONTRACT No. 2.—P. Cicero, dated July 17, 1869; approved July 29, 1869. Expired Dec. 1, 1869,—all paid.

CONTRACT No 3.—Obed Smith, dated April 1, 1870; approved July 6, 1870. Expired Sept. 1, 1870,—all paid.

CONTRACT No. 4—Obed Smith, dated June 29, 1870; approved July 7, 1870. Expired Oct. 1, 1871,—all paid.

CONTRACT No. 5.—Obed Smith, dated June 29, 1870; approved July 7, 1870. Expired Dec. 1, 1870,—all paid.

Midland, Houghton Lake and Grand Traverse Road.

CONTRACT No. 4.—T. Bathay, Obed Smith assignee; approved June 4, 1868. Expired Dec. 1, 1869. Extended to Nov. 1, 1870. Assigned to O. Smith, Sept. 18, 1871 and extended to Nov. 1, 1872.

OBED SMITH'S ACCOUNT.—CONTRACT NO. 5.

Duncan, A. and S. Road.

1870.	Dr.	
Sept. 7.	Cyrus Hewitt	$1,000 00
Oct. 6.	D. Preston	1,000 00
		$2,000 00
	C. W. Richardson	550 00
1871.		
Feb. 11.	H. R. Morse	168 75
May 18.	D S. Wheelock	81 25
Sept. 27.	L. B. Potter	1,000 00
Oct. 26.	A. Dunheart	100 00
Oct. 26.	D. McArthur	150 00
		$2,000 00
Feb. 16.	E. H. Porter	500 00
Feb. 16.	E. H. Porter	500 00
		$5,000 00

1870.	Cr.	
Sept. 10.	By warrant (690)	$2,000 00
Nov. 2.	" " (675)	2,000 00
Dec. 9.	" " (708)	500 00
" 9.	" " (704)	500 00
		$5,000 00

CONTRACT NO. 4.

Midland, Hoaghton Lake, and M. Road.

1871.	Dr.	
Oct. 26.	L. B. Potter	$2,000 00
Oct. 10.	A. Pack & Co	750 00
Nov. 29.	W. A. Barnard & Co	1,000 00
1869.		
Nov. 26.	Henry R. Morse	988 79
Dec. 10.	W. A. Butler & Co	961 21
		$1,250 00

1871.	Cr.	
Oct. 26.	By warrant (860)	$2,000 00
Dec. 7.	" " (898)	901 34
" 7.	" " (899)	1,964 34
" 29.	" " (908)	1,750 00
1869.		
Nov. 26.	" " (457)	1,250 00

OBED SMITH'S CONTRACT, No. 1.

Duncan, Alpena and Au Sauble Road.

Dr.

1869.			
Oct. 9.	To paid warrant	407	$3,350 00
Dec. 10.	" "	508	1,750 00
1870.			
Aug. 11.	" "	608	2,250 00
Sept. 10.	" "	621	1,500 00
Dec. 9.	" "	700	937 50
" 9.	" "	701	375 00
" 9.	" "	702	562 50
1871.			
Oct. 2.	" "	841	125 00
" 2.	" "	842	937 50
1869.			
Dec. 18.	To order to Wm. Jenny		500 00
May 23.	" L. M. Mason		150 00
	To balance		662 50
			$13,100 00

Cr.

1869.			
July 29.	By amount of contract		$11,250 00
1871.			
Oct. 2.	Extra allowance		537 50
Nov. 23.	Due on warrant	841	125 00
" 23.	" "	842	787 50
Mar. 4.	Paid W. Jenny, warrant	700	250 00
	" L. M. Mason, warrant	842	150 00
			$13,100 00
	By balance		$662 50

CONTRACT No. 2.

Dr.

1870.			
July 18.	To paid warrant No.	587	$1,600 00
Aug. 11.	" " No.	602	400 00
			$2,000 00
1869.			
Nov. 26.	To paid by warrant No.	457	$1,250 00
	Paid on contract No. 2, by mistake, and charged to contract No. 4, Sept. 30, 1871.		

Cr.

1869.			
July 29.	By amount of contract		$2,000 00
			$2,000 00

CONTRACT NO. 3.

1870.	Dr.	
July 18.	To paid warrant, No. 386	$440 00
Aug. 11.	" " " " 604	110 00
		$550 00

1870.	Cr.	
July 6.	By amount of contract	$550 00

CONTRACT NO. 4.

1870.	Dr.	
Oct. 14.	To paid warrant No 642	$3,200 00
Nov. 2.	" " " " 674	2,560 00
1871.		
June 6.	" " " " 773	800 00
"	" " " " 774	2,560 00
Sept. 2.	" " " " 812	640 00
"	" " " " 818	640 00
Oct. 2.	" " " " 840	2,750 00
Sep. 30.	To warrant 457 charged	1,250 00
Dec. 27.	To paid warrant No. 902	840 00
		$15,240 00

1870	Cr.	
July 7.	By amount of contract	$14,400 00
1871.		
Dec. 27.	By extra	840 00
		$15,240 00

1871.	Cr.	
Nov. 23.	By balance on warrant 840	$403 16
Dec. 27.	" " " " 902	840 00

CCNTRACT NO. 5.

1870.	Dr.	
Sep. 10.	To paid warrant No. 630	$2,000 00
Nov. 2.	" " " " 675	2,000 00
Dec. 9.	" " " " 708	500 00
Dec. 9.	" " " " 704	500 00
		$5,000 00

1870.	Cr.	
July 7.	By amount of contract	$5,000 00

OBED SMITH'S ACC'T.—CONTRACT NO. 8.

Duncan, Alpena, and Au Sauble Road.

Dr.

1870.		
July 14.	To Byron Matteson	$00 50
" "	" H, R. Morse	1 50
" 28.	" Geo. W. Fletcher	2 40
		$4 40
Sept. 17.	To Wm. H. Phelps	1 00
Nov. 2.	" J. Ryan	10
		$1 10
		$5 50

Cr.

1870.		
July 13.	By warrant (596)	$4 40
		$4 40
Aug. 11.	" " (604)	1 10
		$5 50

Dr.

1871.		
June 6.	To Luce & Co	$1,250 00
" 24.	J. A. Case	9 16
" 28.	J. Ryan	150 00
" 28.	O. Smith	350 00
July 8.	S. Leavett	200 00
" 12.	O. Smith	50 00
" 14.	G. N. Fletcher	350 00
" 15.	Jas. McElroy	50 00
" 18.	T. Luce & Co.	50 00
" 21.	Chas. Emerson	50 00
" 28.	T. Luce & Co.	50 84
		$2,560 00

Cr.

1871.		
June 8.	By warrant (774)	$2,560 00
		$2,560 00

CONTRACT No. 2.

1870.	Dr.	
Oct. 21.	To E. H. Porter	$1,000 00
" 7.	" C. Hewitt	1,000 00
	" "	1,200 00
		$3,200 00

	Cr.	
Oct. 14.—By warrant (642)		$3,200 00
		$3,200 00

1870.	Dr.	
Nov. 14.	To S. L. Carpenter	$39 07
Dec. 1.	" D. Preston & Co.,	1,500 00
Dec. 21.	" W. R. Scott	84 30
Dec. 21.	" J. McArthur	200 00
Dec. 21.	" O. Smith	100 00
Dec. 21.	" A. W. Comstock	58 64
1871.		
Jan. 12.	" Alfred Watson	150 00
" 22.	" J. W. Edwards	100 00
Feb. 2.	" S. Doyle	50 00
Feb. 24.	" F. W. Gilchrist	150 00
Mar. 8.	" D. McArthur	50 00
May 18.	" D. S. Wheelock	68 59
		$3 500 00

1870.	Cr.	
Nov. 2.	By warrant (674)	$3,500 00
		$3,500 00

1871.	Dr.	
June 24.	To A. Pack	$800 00
1871.	Cr.	
June 8.	Bp warrant (773)	$800 00

1871.	Dr.	
Sept. 4.	To G. A. Butterfield	50 00
" 2.	" A. R. Richardson	227 84
" 2.	" L. Smith	100 00
" 2.	" E. Falkenburg	100 00
" 21.	" Emil Walsh	100 00
Oct. 26.	" D. McArthur	162 16
		$640 00

1871.		Cr.	
Sept. 2.	By warrant (812)		$640 00
			$640 00

1871.		Dr.	
Oct. 26.	To D. McArthur		$137 84
" 26.	" M. W. Horne		300 00
" 26.	" Crazen & Davis		50 00
" 26.	" W. H. Johnson		50 00
" 26.	" T. Earls		100 00
Nov. 10.	" J. D. Willington		2 16
			$640 00

1871.		Cr.	
Sept. 2.	By warrant (813)		$640 00
			$640 00

1871.		Dr.	
Oct. 25.	To T. Bathay		$1,000 00
" 9.	" T. Luce & Co.,		1,250 00
Nov. 10.	" J. D. Willington		97 84

1871.		Cr.	
Oct. 2.	By warrant (840)		$2,750 00
			$2,750 00

1871.		Dr.	
Dec. 1.	O. Smith		$250 00
" 6.	" J. H. Hill		79 79

1871.		Cr.	
Dec. 29.	By warrant (902)		$840 00
			$840 00

The Presiding Officer—The Senate will now take an informal recess of five minutes.

AFTER RECESS.

The Presiding Officer—Proceed with the examination.

The direct examination of Geo. F. Gillam resumed:

By Mr. McGowan:

Question. I will call your attention to page 276 of the book

of reserves, to the N. E. ¼ of the S. W. ¼, sec. 20, 10 N., 4 E. Do you find that?

Answer. Yes, sir.

Q. By whom was it reserved?

A. Reserved by Edmund Hall.

Q. When?

A. Dec. 14th, 1870.

Q. On the same page. The N. ½ of the S. W. ¼, section 5, 8 N. and 1 W.

A. That is reserved at the same time?

Q. By Hall?

A. Yes, sir.

Q. The S. ½ of the N. E. ¼, and the N. W. ¼ of the N. E. ¼, section 13, town 12 N., range 10 W.

A. Reserved at the same time.

Q. By whom?

A. Edmund Hall.

Q. Please turn to page 257. I will call your attention to the S. W. ¼ of the S. W. ¼, section 17, 2 S., 16 W.?

A. The "S. W. ¼ of the S. W. ¼, section 17, 2 S., 16 W., reserved by Edmund Hall December 14th, 1870."

Q. Do you know on what contract?

A. Contract No. 29. That was Edmund Hall's contract.

Q. Was not the contract in force at that time?

A. Yes, sir.

Q. Was it over-reserved?

A. It was not; no, sir.

Q. The Ionia, Houghton Lake, and Mackinaw State road?

A. No, sir, it was not over reserved.

Q. I call your attention to page 276.

A. Yes, sir.

Q. [Reading:] Description, N. W. ¼ of N. W. ¼, and S. E. ¼ of N. E. ¼, section 11, town 10 N., 4 E.

A. [Reading:] That is S. E. ¼ of N. E. ¼, and N. W. ¼ of N. E. ¼, of section 11. That was reserved December 14, 1870.

Q. Reserved by Edmund Hall, December 14, 1870?

A. Yes.

Q. On what contract?

A. Contract number 29.

Q. Was it properly reserved on that?

A. Yes, to all appearances. It is all straight on the book.

Q. You have stated that that contract was not full on the 14th?

A. No, sir, it was not, according to the book.

Q. Turn to page 238.

A. Yes, sir.

Q. I call your attention to the S. ½ of the S. E. ¼, section 13, town 4 N., 13 W.

A. Section 13?

Q. Yes, sir.

A. The S. W. ¼ of S. E. ¼, and S. E. ¼ of S. E. ¼ of section 13, town 4 N., 13 W., reserved December 5, 1870.

Q. That makes the south half?

A. Yes.

Q. Of the southeast quarter?

A. Yes, sir; makes the south half of the southeast.

Q. Reserved on whose contract; for whom?

A. Edmund Hall's contract number 27,—the contract he is acting for.

Q. State whether that contract is over-reserved or not,—at that time?

A. No, sir; it was not.

Q. [By Mr. Manager Grosvenor.] You say that is the same contract?

A. This is contract 27.

Q. [By Mr. Manager Grosvenor.] What is the date?

A. December 5th, 1870.

Q. On the same page, Mr. Gillam, the west fractional half of the N. W. ¼, section 19, town 2 N., range 15 W.?

A. Yes, sir.

Q. By whom reserved and when?

A. Edmund Hall, December 5, 1870.

Q. On what contract?

A. Contract No. 27.

Q. Mr. Gillam, will you look at that paper? [Paper shown witness.] State what it is.

A. Well, it is a list of lands.

Q. Look at the bottom of the list. Is there an application?

A. Yes. There is an application of John W. Van Riper, by Edmund Hall, acting for him, to "reserve for me such land on my contract No. 27,—Ionia, Houghton Lake, and Mackinaw State Roads."

Q. State whether it is one of the office files.

A. It looks like it; yes, sir.

Q. Any official stamp on the back of it,—anything of that kind, or filing?

A. There is no stamp on it, as I see. The stamps were not in vogue, I guess, in that day.

Q. Filed in the office when?

A. December 5, 1870.

Mr. McGowan—Mr. President: My proposition is to offer in evidence that application, and it is simply for the purpose of identifying two descriptions that are on it. It is a long list of lands that are applied for by Edmund Hall, under the power of attorney which he held, which has been already testified to by Mr. Potter, and it is hardly worth while to spread it out upon the records.

The Presiding Officer—Select those two descriptions, and let the reporter take them down.

Mr. McGowan—I will call the attention of the Managers to those two descriptions which I read; they are on the first page. [Handing paper to Managers.] You will see that the descriptions, as I gave them to the witness, describe the pieces in eighties, while in the application they are described in forties, and I prefer to give them in the subdivision, as they are in the application.

If there is no objection to introducing that in evidence, I propose to give the descriptions to the reporters. The paper will be left on file. [To the reporter]. They are the "S. W. ¼ of S. E. ¼, Sec. 13, town 4 north, range 14 west, forty acres, S. E. ¼ of S. E. ¼, Sec. 13, town 4 north, range 13 west, forty acres. The west half of N. W. ¼, Sec. 19, town 2 north, range 15 west, 54 21-100 acres."

The Presiding Officer—Do you want the application to go with the descriptions?

Mr. McGowan—The application will be left on file for reference.

[Application marked by the Secretary, "Exhibit PP."]

Mr. McGowan—Will the Secretary give to the reporter the date of that application?

The Secretary read as follows:

"December 5th, 1870."

The Presiding Officer—Now proceed.

By Mr. McGowan:

Question. Mr. Gillam, when a contractor had reserved his contract full, and sent orders for further reservations, what was the practice of the office?

Answer. To refuse the reservations,—refuse to make them.

Q. State whether you had any instructions from the present Commissioner, with regard to that matter.

A. Yes, sir; that was his strict order,—not to allow any contract to be over-reserved.

CROSS-EXAMINATION OF GEORGE F. GILLAM.

Examined by Mr. Manager Huston:

Question. When was it that the Commissioner gave you that order?

A. I think it was when I first commenced work at the book.

Q. How long ago was that?

A. I think it was the latter part of June or the first of July that I commenced to work on this book. I think it was sometime in June.

Q. How long had you been in the office?

A. I came here the first of June.

Q. How were these applications for reservations made,—to you, or to the Commissioner?

A. They would write the Commissioner first, or his Deputy, and after the reservation was made—

Q. You did not have any control or influence in that office, did you?

A. No, sir.

Q. You do what you are directed to do by the Deputy and Commissioner?

A. Yes, sir.

Q. Has it not been your practice when the Deputy gave you a list of lands, and directed you to reserve them upon any contract, to do so?

A. If he had any doubts he would ask me.

Q. Has not that been your practice, if he directed you to do so, that you would do so?

A. If the contract was full, I never reserved them,—had orders not to. He never tried to force anything of that kind.

Q. This list of lands that you referred to here,—who made that list?

A. I could not tell you; that is made in the year 1870, and signed by Edmund Hall,—supposed to be.

Q. Do you know the handwriting?

A. Perhaps I do. It says "L. B. Potter," and it looks like his writing.

Q. Do you not say that is Potter's writing?

A. I should say it was; it looks very much like it.

Q. The application was made by Potter for Hall?

A. That is the way it appears.

Q. J. W. Van Riper by Edmund Hall, per L. B. Potter?

A. Yes, sir.

Q. Have you any means of knowing who furnished this list of lands to Potter?

A. I have not.

Q. You do not know whether he received it of Captain Barnard, or not?

A. I do not.

Q. What does this mean in the margin here, "J. B. Barr applies?"

A. That means that J. B. Barr had some time or other applied for some land.

Q. Does that mean that he applied for patents?

A. It simply means that J. B. Barr had applied for these lands.

Q. What does that mean?

A. That one J. B. Barr had applied for that land sometime.

Q. Do you know whose writing that is?

A. I presume that is mine.

Q. What does this mean here?

A. That is the same. It means J. B. Barr had applied for these lots.

Q. This one here?

A. J. Gridley's name on that lot.

Q. This is your handwriting,—the whole of it?

A. I think it is.

Q. Hewitt's name appears here frequently?

A. Yes, sir; his name was on the description.

Q. What do you mean,—his name was on the plats?

A. It was on that description of land as being applied for by the party mentioned.

Q. How is it with this one?

A. Bacon and Goodrich?

Q. Yes.

A. Their names were on that description.

Q. This one?

A. That is Hewitt.

Q. These "do.'s" are Hewitt's also?

A. Yes, sir.

Q. Do you see any on the ends of the page, in the same shape?

A. Yes, sir; Bacon, the first three.

Q. Whose next?

A. Bacon, three more. And there is a name partly rubbed out by another word—it looks like Grant, or Gront—down for some seven or eight more; Mr. Leach for some; Bacon, Frost, —that is the name I could not make out.

Q. Nearly that whole page is for Leach and Frost?

A. Yes, sir; different parties.

Q. Nearly the whole of that next page is Frost?

A. Frost, the first three; one for Bacon; two for Leach; one for Bacon; two for Hewitt.

Q. You have a reservation-book there?

A. Yes, sir.

Q. Do not you find, according to the minutes that you have here, that most of these lands had been applied for or reserved by some party?

A. Yes, sir, I find a good many of them.

Q. Are these reservations upon the reservation-book?

A. I could not say that they were. I think it is probable that they were not.

Q. Were they ever on the reservation-book?

A. I found a good many that were not, that were marked.

Q. Do you not remember, as a matter of fact, that these minutes you have made along here, showing these lands that had been applied for, nearly all of them by other parties, that they were applications that do not appear on the reservation-book?

A. I think they do not appear on the reservation-book.

Q. They merely appear by pencilling upon the plat-books?

A. I can say this much at least, that most of them are found to have no claim,—no just claim for the land.

Q. How did you find out they had no claim?

A. Looked up their contracts and scrip accounts, and orders, and everything of that kind.

Q. Then, do you say that Mr. Barr had overdrawn?

A. Yes, sir; I think I found last summer several descriptions marked to Barr that I could not find any credit for.

Q. How large a number of these are for Hewitt? Do you say that he has overdrawn?

A. I think any lands that are marked there for Hewitt he has no just claim for.

Q. Had Hewitt overdrawn?

A. I do not know how the mark got on,—I found the mark on the plat-book as being paid for by Hewitt; I do not know whether Hewitt had any claim to the land.

Q. Hewitt has been holding land all the while you have been t ere?

A. Yes, sir; he has had some lands that have been rightly reserved.

Q. He has had lands that were not rightly reserved?

A. I have seen Mr. Hewitt's name on the plats when he had not anything to hold it; but whether he got it put on, or whether some one else put it on, I could not say.

Q. Did you not find, from your observation, that there were some lands being held by Hewitt, that he had no right to hold?

A. I did not find them being held by any one.

Q. They were marked to him?

A. I found some with his name on.

Q. In whose handwriting?

A. I could not tell you now.

Q. Robinson's?

A. I could not say that it was.

Q. You cannot tell whose handwriting it was?

A. I could not.

Q. Do you think it was Hewitt's?

A. I do not know his hand-writing.

Q. When did the scrip become matured upon this Van Riper contract?

A. It was sometime last fall,—I could not give the exact dates. I got the number of the warrant.

Q. That is the last warrant?

A. The last warrant was 862,—which was late last fall.

Q. The amount?

A. The amount of the last warrant was $4,800.

Q. What proportion of that had matured prior to that?

A. There is another,—No. 837,—that must have been last fall, also, of $3,200.

Q. Have you not some book in the office that will tell?

A. Yes, sir.

Q. Have you the warrant-book?

A. No, sir.

Q. What is the date of the warrant, No. 862?

A. October 26.

Q. The job had been accepted and the work approved at that time?

A. Yes, sir. That is the last credit, the last payment.

Q. What is the amount still held upon that, that is not patented?

A. I gave Mr. Hall's lands in gross, if you recollect, the other day. I couldn't state exactly. There is considerable on this contract scattered among these. I can figure it up in a little while, as it is on the book.

Q. The warrant is October?

A. Yes, sir.

Q. The other warrant must be some time prior to that?

A. Yes, sir.

Q. How long before?

A. As near as I can recollect, it must have been about the 2d of September,—warrant 822.

Q. Are those contracts on file in your office?

A. No, sir; in the Road Commissioner's office.

Q. Will you give us the number of those contracts?

The Presiding Officer—27 and 29.

Question. You may now turn to page 238. When did this scrip mature upon which the lands you refer to were reserved?

Answer. I should say No. 27

Q. That is upon the same; is it No. 27?

A. Yes, sir. Matured by three different warrants last fall, you may say, from the first of September until the first of December.

Q. These are the lands that Barnard sold to Munroe and Hudson?

A. I do not know anything about it.

Q. You do not know anything about this transaction?

A. No, sir; I did not know as he ever sold them.

Q. Did you have any knowledge of that, at the time?

A. No, sir; I did not know as he had ever sold them any land.

Q. You knew nothing about it?

A. No, sir.

[The witness retires from the stand and produces Nos. 27 and 29 of the contracts on the Ionia, Houghton Lake and Mackinaw State road.]

Question. Does the book show that the lands, that you have given us a description of, have been patented?

Answer. Yes, sir.

Q. The S. W. of the S. W. sec. 17,—let me get at this 232,—the S. ½ of the S. E. ¼ sec. 13, 4 N., 13 W?

A. That is marked patented.

Q. In whose handwriting is that marked patented?

A. Mine.

Q. Do you know when it was patented?

A. I could not tell you without looking at the certificate-book.

Q. Do you know who called your attention to the fact that it had been patented?

A. I called my own attention to it. I ran over the book and saw that the land had been patented.

Q. There is another book in which you keep the lands that are patented?

A. Yes, sir, I ran over the plat-book to see if these descriptions are patented, so as to make out a contract.

Q. What book?

A. The plat-book.

Q. Is not there another book except the plat-book, by which you can tell that lands have been patented?

A. They are entered in the certificate-book. A record is kept of the certificates that are entered for the patents.

Q. Do you ascertain them from the plat-book.

A. I ascertained from the plat-book.

Q. You mean by the plat-book, simply the book that has plats in it?

A. Yes, sir.

Q. And it is usually penciled upon the plats, that it has been patented?

A. No, sir; where there has been a patent, it is marked in ink, and crossed with red ink.

Q. The W. frl. ¼ of the N. W. ¼ of sec. 19, on the same page?

A. That is patented, also.

Q. You know no more about that than you do about the other?

A. No, sir. There is no room here to enter all the particulars, and it is generally no object to do it.

Q. Then you don't remember any of these transactions, only as you find them on the book?

A. No, sir.

Q. You speak about the contract of Mr. Smith's being behind $2,197.89?

A. Yes, sir.

Q. Then what contract was that?

A. It was really five contracts together,—all figured together. They always had been.

Q. What five contracts? Will you give us the names of the contracts?

A. I think they are numbered one two, three, four, and five, Duncan, Alpena and Sauble road.

Q. They were all on the same road?

A. All on the same road; yes, sir.

Q. Five different contracts on the same road?

A. Yes, sir.

Q. Were they taken all at the same time?—the contracts all made at the same time?

A. I can tell by looking,

Q. Look and see?

A. [Witness here referred to book.] They were not all made at the same time, or at least not all approved at the same time. They generally date from the time the contract was approved.

Q. What is the difference in dates?

A. I find two were approved July 29, 1869.

Q. Who had these contracts? Who was the contract with?

A. The contract originally on No. 1 was with Smith & Cicero, on No. 2 was Paulette Cicero.

Q. Now No. 3?

A. No. 3 was with Obed Smith.

Q. What is the date?

A. July 6th, 1870.

Q. What was the date of the others?

A. The 3d was July 6th, 1870, and the 4th July 7th, 1870, and the 5th was July 7th, 1870.

Q. Then they were all in July, 1870?

A. Yes, sir, the three last.

Q. The first two?

A. The first two are in 1869.

Q. When were the lands reserved upon the three last?

A. They were all reserved in gross.

Q. Will you tell me how it was you ascertained that upon some of these contracts, $2,197.87 overdrawn, if the lands were all reserved in gross upon the contracts?

A. Oh, I figured them figures. If I stated on his contract I should have said, perhaps, on these five contracts.

Q. I understood you that one of his contracts was overdrawn that amount?

A. That is not so; they were all figured together.

Q. What was the date which you find he had overdrawn that amount?

A. Well, this was the 23d of November, I think, that I figured up his contract,—at least the 23d of November, I think that the deficiency occurred before that.

Mr. Monager Huston—Do the counsel desire to put in that application of Ripley's?

Mr. McGowan—We will, by and by.

Mr. Manager Huston—I should like to have you put it in, and we can then take it up on the cross-examination, if it is necessary.

Mr. McGowan—I do not see any thing, particularly, that you want to cross-examine on

By Mr. Manager Huston:

Question. Why was it you made so many different statements to Mr. Smith, if that has been all in gross?

Answer. In regard to his matured scrip account, he wanted to know all about his matured scrip account, that is on these whole five contracts; how each warrant had been paid, and to whom. Simply made out such an account for him, and designated them on the different contracts, simply to show to him, clearly, how each warrant had been paid; that was all the object of this statement. Still I made him out different statements on his contracts,—on the whole contracts, together, at different times,—that is, I showed him how his contracts stood at different times.

Q. Who directed you in the first place to look up Smith's account?

A. I had a general order to look up all these.

Q. Did not Mr. Barnard direct you at that time to have Smith's account looked up?

A. Not that I recollect of; I have no such recollection.

Q. You have no recollection about that?

A. No. I have not. Oh, I usually run over these contracts quite frequently, and of course, it was easy enough for any one

in the office to know how that stood, or out of the office, if they wanted to know.

Q. Look at that and see whether that is the Ripley application you speak of?

[Paper shown witness.]

A. That is the Ripley application, I should say; it looks like it.

Q. What are those papers?

[Other papers shown witness.]

A. Well; it appears to be some telegraph dispatches.

Q. Those are copies of telegrams, are they not? Those two first ones from Barnard to Ripley?

A. They look like it. Yes, they purport to be.

Q. Will you read the application at the bottom of the description of the land?

A. [Reading.] "William A. Barnard, Esq., Dear sir: Will you please reserve for me, on my contract, the above list of lands for a few days, until my man returns from the woods. I am not entirely satisfied about them until I get another report. If you will do this I will make it all right for your trouble if they are vacant. If you will do as above requested, telegraph me, without fail, to-morrow morning. Yours, &c., H. C. Ripley."

Mr. McGowan—What is the date of that? What part, if anything, of that application is underscored?

The Presiding Officer—The date is called for.

Mr. McGowan—The date of filing.

Witness—The date of filing was November 23d.

Question. November 23, 1871, isn't it?

Answer. November 23, 1871; yes.

Mr. McGowan [To Mr. Huston.]—Put it right in evidence. Major, and then it will show for itself whatever there is of it.

Witness—There is some underscored: "Telegraph without fail to-morrow morning."

The Presiding Officer—[To Mr. Huston.] Do you wish the whole of it in evidence?

Mr. Manager Huston—Yes, sir.

Mr. McGowan—We are willing, as we want to get the explanation from another witness with regard to it.

The following is a copy of the paper received in evidence, filed, and marked by the Secretary "Exhibit QQ."

[EXHIBIT QQ.]

STATE LAND OFFICE,
Lansing, Nov. 23, 1871.

Henry C. Ripley, East Saginaw, Mich.:

The lands are Obed Smith's reservation. You have not credit to hold all of them.

I am looking over Smith's account.

WM. A. BARNARD,
Dep. Com.

STATE LAND OFFICE, Nov. 23, 1871.

H. C. Ripley, East Saginaw, Mich.:

Will reserve the amount of your credit, commencing south, and report by letter.

WM. A. BARNARD,
Dep. Com.

EAST SAGINAW, Nov. 23, 1871.

Wm. A. Barnard:

I am waiting for telegraph from about lands ordered yesterday.

H. C. RIPLEY,

Ans. immediately.

EAST SAGINAW, 23 Nov., 1871.

Wm. A. Barnard, Dep. Com'r:

If lands are in market furnish scrip for whatever I am short, or reject from the list furtherest north enough so that my credit will cover. Answer at once.

H. C. RIPLEY.

SUBDIVISION.	Section.	Town.	Range.	Acres.	100ths.	REMARKS.
S e ¼ of n w ¼	1	30 N	7 E	40		Obed Smith (Erased).
N w ¼ of s w ¼	3	30	7	40		" (Erased).
S e ¼ of n w ¼ and e ½ of s w ¼	4	30	7	120		" Erased.
N w ¼ of s w ¼	5	37 N	2 W	40		" Erased.
N e ¼ of s e ¼	6	37	2	40		" Erased.
S w ¼ of n e ¼ and n w ¼ of s e ¼	8	37	2	80		" Erased.
S ½ of s e ¼	6	37	2	80		" Erased.
N e ¼ of n e ¼	7	37	2	40		" Erased.
N ½ of n e ¼	21	37	1 E	80		" Erased,
S w ¼ of n e ¼	18	37	1	40		" Erased.
S ½ of s e ¼	27	32	8 E	80		"
W ½ of s w ¼	4	31	8	80		"
W ½ of n e ¼	2	31	8	84	78	"
S ½ of s e ¼	6	36 E	1E	80		" Erased.
S ½ of n e ¼	9	36	1	80		" Erased.
W ½ of s w ¼	5	36	1	80		" Erased.
W ½ of s e ¼	20	37	1 W	80		" Erased.
N e ¼ of n w ¼	10	31	8 E	40		"
N e ¼ of	24	36	2 W	63	66	" Erased.
E ½ of s e ¼	9	36	1 E	80		" Erased.
W ½ of n w ¼	18	31	5	80		"
S ½ of n e ¼ and e ½ of n w ¼	14	31	5	160		"
S e ¼ of s e ¼	11	31	5	40		"
N w ¼ of	13	31	5	160		"
N e ¼ of n w ¼	15	31	5	40		" Erased
				1,928	44	

W. A. Barnard, Esq.:

DEAR SIR—Will you please reserve for me on my contract the above list of lands for a few days until my man returns from the woods. I am not entirely satisfied about them until I get another report. If you will do this I will make it all right for your trouble. If they are vacant and you will do as above requested, *telegraph me without fail to-morrow morning.*

Yours,

H. C. RIPLEY.

Question. What do you understand Mr. Ripley to mean there, by saying he would reward Mr. Barnard for his trouble?

Answer. Well, I don't know as I could give you any idea what he does really mean, any more than he was willing to pay for it.

Q. Will you read that telegram, and see if that enlightens you as to who was having Smith's account looked up?

A. The first telegram says:

[The witness here read the first telegram contained in "Exhibit QQ," as above.]

Q. What is the next telegram?

Mr. McGowan—I would like to have the date of the first one.

Witness—That is November 23d, 1871. The next one is the same date, and reads:

[The witness here read the second telegram, contained in "Exhibit QQ," as above.]

Question. Now, Mr. Gillam, I want to know whether you can remember that you looked up Smith's account before that application came in of Mr. Ripley's.

A. Mr. Barnard told me to look up Ripley's account.

Q. Do you know whether he told you to look it up before this application came from Ripley, or not?

A. No. I think—

Q. Which do you mean that Barnard told you to look up,—Ripley's account, or Smith's account?

A. Smith's. It was after Ripley's application came in.

Q. Then Barnard told you to look it up?

A. Yes, sir; and I looked it up on that day.

Q. Ripley is an extensive land dealer with the office, is he not?

A. He has had three or four contracts. He has one in force now,—quite a large one.

Q. You did not find that he had credit at that time, did you,—Ripley?

A. Yes. He had—

Q. What amount of credit did he have?

A. My recollection is, it was about $1,500,—from $1,200 to $1,500. He had some credit. I am sure it was over $1,000.

Q. Was that application handed to you when it came to the office by Barnard.

A. Well, I don't recollect as he handed me the application. He told me, at least, that Ripley had applied for a lot of Smith's lands and wanted I should look up the accounts and see how it was.

Q. Why did you not put it on the reserve book?

A. I went to work and looked up Smith's account, the first thing, to see whether Ripley could hold the lands.

Q. You have testified that these lands in that list were marked to Ripley on the plat-book?

A. Yes, sir.

Q. Now, is it the practice to mark lands on the plat-book as held by parties, and not put them on the "reserved" book?

A. That is the way that was done.

Q. When Hall's application was sent it was marked the same way to Hall, but not put on the reservation-book?

A. No, sir. They were not put on the reservation-book.

Q. Can you account for the reason it was not done,—or was that the custom?

A. It was something of a question in my mind, whether Ripley or Hall could hold them. Smith claimed he could hold it.

Q. Smith did not go to the office until the 29th of November, and this was the 23d.

A. It was a question with me whether that application was good for anything.

Q. Why was it a question with you whether it was good for anything?

A. I did not know that a man could reserve lands for a few days; it was a new idea to me, that a man could reserve land a few days.

Q. You spoke about there being a question between Ripley and Hall. How came there to be any question between them?

A. Between Ripley and Smith.

Q. Explain to me why it was that these lands were reserved for Ripley, and he telegraphed that they were reserved for him on the 23d, and then Hall was allowed to reserve the same lands on the 24th of November.

A. Well, I can state to you all I know about it. I looked up Ripley's account on the 23d, and found he could not hold all these lands he applied for, and that was of course giving a chance for Hall to apply.

Q. When you come in the morning, please bring in Hall's application, and let us see whether they do not cover the same lands?

A. Yes, sir; I will do so.

The Presiding Officer—It is now four o'clock. The Senate, sitting as a Court of Impeachment, stands adjourned until to-morrow morning at nine o'clock.

Lansing, Friday, May 17, 1872.

The Senate met, and was called to order by the President *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

Absent without leave, Senators Hannahs and Wilcox.

CROSS-EXAMINATION OF GEORGE F. GILLAM, RESUMED.

Cross-examined by Mr. Manager Huston:

Question. I was asking you about Mr. Ripley's reservation that was made upon the Hall lands, when the Court adjourned.

Answer—Yes, sir.

Q. I understood you to say that reservations were marked upon the plat-books, but not upon the reservation books?

A. Yes, sir. I think that Mr. Barnard marked them all up on the reserve-book when the plat was received.

Q. Did you find the application of Mr. Hall.

A. Yes, sir; that is here among the files of the Secretary. I do not know that it is in evidence.

[The Secretary produces the paper,—Exhibit AA.]

Q. I understood you to say that the reason that these were not marked upon the reservation-book, was that it was not certain whether they could hold the lands or not?

A. That was one reason at the time; yes, sir.

Q. Will you look and see whether Hall's does not cover some of the same land as there is in Mr. Ripley's?

A. Yes, sir; they do in part,—some are the same. There are some lands in Hall's application that are not in the other

Q. If Ripley's reservation had been good, his being patented on the 23d would have held the lands, would it not?

A. If it had been a good reservation, and put in previous to this, it would hold the lands.

Q. Then why was Hall's marked also upon the same land?

A. I will state this much. In looking up Ripley's account I found he had not unmatured scrip enough to hold it. I informed Barnard of the fact. How Barnard came to mark this land to Hall, you will have to ask him.

Q. You do not know yourself?

A. No, sir; for some days after this was reserved, I did not know that there had been any such reservations made.

Q. Can you tell when those lands were marked upon the plats of Hall. It seems Mr. Smith says they were not marked on the 29th, but found afterwards they were marked?

A. He claims that, but I could not tell. Mr. Smith was at the office on the 29th, and I told him Ripley had applied for the land. I did not know anything about this application then,—it had not been handed to me.

Q. You say you found a deficiency on one of the contracts?

A. I found a deficiency on the Duncan, Alpena and Au Sable contract.

Q. But the lands were all generally selected on the five contracts?

A. Yes, sir.

Q. When you came to figure up the five contracts, did you find a deficiency?

A. Yes, sir; I took the five together.

Q. Was that $25.70 a deficiency on all the contracts?

A. On all the contracts?

Q. Afterwards you ascertained there was no such thing, when you came to get the true statement?

A. I found that another contract which he had, which was allowed finally to run right along after this. That was some time afterwards.

Q. You found, as a matter of fact, that he had a contract exceeding his reservations, did you not?

A. Yes, sir.

Q. I want to ask you how long it was before the time Ripley made his reservation, or asked to have a reservation made for him, that Barnard & Co. bought a part of Smith's unmatured scrip, or matured scrip, whichever it was.

A. I could not say as Barnard & Co. bought any scrip. The scrip was sold.

Q. Who sold it?

A. I suppose Smith did.

Q. Who bought it?

A. I think that Mr. Porter bought one thousand.

Q. Porter acted as agent for Hall, in reserving these lands, did he not?

A. It appears so.

Q. Who bought the balance?

A. I could not say now. I do not recollect.

Q. What was the amount that was sold?

A. Two thousand dollars.

Q. How long was that before Ripley's reservation?

A. It was a month, I think.

Q. Could you not tell exactly, by examining the books?

A. I could by examining the books.

Q. What book is it in?

A. It is in the scrip-book.

Q. Have you got the scrip-book here?

A. No, sir.

Q. I want to ask you if Mr. Smith's reservations were not made before this scrip was sold?

A. Yes, sir.

Q. Now, I understood you to say it was not the rule of the

office to allow a party to sell his scrip after he had reserved lands, and let the land go back to the State?

A. It was not the rule.

Q. How was it that it was permitted in this case?

A. I could not tell you. The first I knew about it, the scrip was sold.

Q. If the Commissioner had not permitted this $2,000 of scrip to have been sold, there would not have been but about two eighties of land, according to your first statement, of Smith's uncovered, saying nothing about the contract that you did not discover in your statement?

A. If the matured scrip had not been sold, the land would have been nearly all covered.

Q. Was the $2,000 matured scrip?

A. Yes, sir.

Q. Now, do you not know that that has been the practice of the office, to allow a party, when his scrip is matured, although he has held lands for months and years, in fact, on his scrip when it was unmatured—to allow him, when his scrip matured, to sell his scrip, and allow the land to go back?

A. I do not recollect any other instance, while I have been in the office, of such a case.

Q. Will you tell me who it is accepts the orders that are drawn by these parties, when they sell scrip?

A. The Commissioner could, of course, and the Deputy; and whether Robinson has any right to, or not, I do not know. It is supposed to be the Commissioner or Deputy.

Q. This $2,000 worth of scrip, that Smith sold, was credited to some one else upon the books, was it not?

A. It was credited to the party he sold to.

Q. After he had sold this, Barnard directed the account to be booked up to see whether he had uncovered his land?

A. Yes, sir; when his application was made.

Q. And if that had not been done, the lands would not have been uncovered, according to the first statement you made?

A. If the scrip had not been sold.

Q. Was it just $2,000 worth of scrip or 2,000 acres of land?

A. It is $2,000; that is my recollection.

Q. In these contracts of Mr. Hall's are any of them the Hall & Upton contracts?

A. No, sir; that is another Hall. That is the Hall of Muskegon.

Q. What quantity of land is reserved upon that contract?

A. I know it is not full; I know he has a credit.

Q. Tell us why it is not full?

A. Well, it is. He has more unmatured credit than he has land reserved.

Q. Will you look and see how it was July 10, 1871,—whether it was full then or not.

A. I cannot tell, without—

Q. Do you know it was not reserved full at that time?

A. I can't say. I don't recollect.

Q. If it is not full now, could it have been full last July?

A. It might have been full. He might have sold the land to some one and patented up some other land,—bought scrip and patented it up.

Q. How long would it take you to see whether it was full?

A. It might take a day to look over and see to whom the land was patented and where, at that time in July.

Q. Look and see whether any of that has been patented. You can tell that in a moment?

A. Yes, sir; I can tell that. [The witness here referred to a book.] There has been a good many descriptions patented on the contract.

Q. Since July first?

A. The name of the parties I have not got. We don't mark them on this book. It would cumber up the book to put on all the items. We simply mark when they are patented.

Q. Will you state whether there was any lands improperly withheld on that contract June 1, 1871,—whether it has ever been over-reserved?

A. It is my recollection that about the first time I looked up his contract it appeared to be over reserved; that is, he had applied for a good many lands of other parties, and, in looking it over, it was decided he could not hold them. He applied for a lot of lands of Wm. R. Rogers,—several hundred acres. It has all been stricken out here. I recollect that Rogers could hold the land; and, come to think of it, there was a time when his contract was over-reserved. He had applied for a lot of lands, which, when they were stricken out, left him a large credit agan.

Q. When was it you went to Edmonds in regard to clerks acting as agents?

A. I spoke to him about it last summer, or the forepart of fall.

Q. Acting as agents for what purpose?

A. I asked him what he meant by that rule of clerks acting as agents. He said he did not want clerks to act for parties for compensation.

Q. That was what he said to you?

A. Yes, sir.

Q. You have been there since last June?

A. Yes, sir.

Q. Are you acquainted with Van Dunham?

A. Yes, sir.

Q. You was acquainted with him before he came to the office?

A. Slightly. I saw him a few times.

Q. What do you say in regard to his habits as to sobriety?

A. I could not tell you much about that.

Q. What can you say, what little you did know about it?

A. I understand he was a drinking young man, although I never saw him drink.

Q. What do you say as to his being punctual at his post in office hours?

A. He was absent some.

Q. Was he not absent a good deal?

A. He was absent considerable. I cannot say how much.

Q. Absent more than any other clerk in the office?

A. I could not say.

Q. Was Clarke absent as much as he was?

A. I think not.

Q. Was there any other clerk that was absent as much as Van Dunham? How is it with Griswold?

A. I don't think he was absent a great deal. I did not pay much attention to that one way nor the other.

Q. Did not you know or understand that some of the clerks in the office were acting as agents for parties and receiving gratuities, and so on?

A. No, sir, I did not.

Q. Never had any knowledge of that?

A. No, sir.

Q. Or that they were interested in buying lands?

A. No, sir, I did not.

Q. Never heard it talked of?

A. Oh, I have heard them talk about land or something of that kind, but I never heard any—

Q. You had heard that talked in the office, had you not?

A. Yes, sir. I had heard clerks make remarks about land speculation, or something of that kind, but I never heard a clerk tell me that he had bought any land.

Q. No? Never had one tell you out directly?

A. No, sir.

Q. What was the nature of the speculations you heard them speak of?

A. I could not tell you, as I know of,—something I never paid any particular attention to; sometimes I heard remarks thrown out that there was a speculation in land, or you could make money in land, or some land was good, and so on.

Q. You heard these things occasionally in the office?

A. Yes, sir, I heard remarks sometimes thrown out by clerks, but whether they were joking or not, I don't know.

Q. Do you remember, or have you seen, the testimony of William Coffron of North Branch?

A. No, sir; I have not.

Q. I did not know but you knew the descriptions of land that he testified in regard to?

A. No, sir, I don't know anything about it.

RE-EXAMINATION OF G. F. GILLAM.

Re-examined by Mr. McGowan:

Question. Have you heard any remarks in the office about speculating in land, since the trial commenced?

Answer. I don't know whether I have or not. I may have heard such remarks.

Mr. McGowan—I would ask the Secretary for the file of Ripley's applications, and the telegrams attached. The Commissioner tells me that all the telegrams were printed in the proceedings. If they are all considered in,—those four telegrams that are attached,—that is all we care for.

The Presiding Officer—There are four telegrams printed in the proceedings.

Mr. McGowan—There were but two read, and I only want the understanding that they are all considered in evidence.

The Presiding Officer—The understanding is, that they are all considered in evidence.

By Mr. McGowan:

Question. You say, in response to the Manager, that of this list of land applied for by Ripley, that Mr. Hall applied for the same lands, or a portion of them?

Answer. He applied for some of the same lands.

Q. Was it not a fact that the lands which he applied for, that were on that list, were the lands which Ripley could not hold by reason of not having credit?

A. Yes, sir.

Q. You were asked with regard to marginal checks.

A. Well, Ripley, you know, wrote two letters. The last letter he insisted on certain descriptions, that was not only a portion

of his credit, finally; and Hall's application, I think, covered the most of the balance.

Q. Covered the balance?

A. Yes, sir, it would be.

Q. I would ask you to explain, more fully, with regard to these marginal checks on Mr. Hall's application,—the application which was handed to you yesterday, and which is now on file.

A. I found marks on the plat-books to three different parties, on different contracts, and I went through with all the different contracts in force, where there were conflicting applications, to look them up, so as to ascertain exactly how the contracts stood.

Q. When were these marks on the books made, which you found, and from which you checked Hall's application?

A. They were most of them dated back in 1868, 1869, and 1870.

Q. Were any of them marks that were made within the present administration?

A. I don't recollect of any now. I would not say that there was not.

Q. You say most of them were 1868, 1869, and 1870?

A. Yes, sir; they were generally old marks, quite a ways back,—all these, J. B. Barr and J. H. Hill; and these applications were back in old times.

Q. Were you here at the time the office was removed from the old office to the present piace?

A. I was; yes, sir.

Q. Do you recollect the time?

A. Well, it was during the winter.

Q. How long was the office broken up and business suspended?

Q. Well, it was—I should think it was rather difficult getting along for about two weeks.

Q. When Mr. Smith was here, on the 29th of November, state whether you and he examined the plat-books, or the book of reserves, or whether you examined both of them.

A. Well, we did in part. I showed him one town, and I on't know but more. I told him Ripley had applied for his land, and I think we turned to a town, and I don't know but to two.

Q. Did you examine the whole of the plat-books?

A. No, sir; I don't think I looked at only one town. I don't know but he looked at all of them; I don't know how that is.

Q. You were asked with regard to the Commissioner, or the Deputy, accepting orders from contractors after the contract was full. What is the present rule in regard to that, if any?

A. Well, the rule is, not to allow it.

Q. Do you know of any cases where that has been allowed under the present Commissioner,—where the contract has been reserved full and then the contractor gave a further order for scrip,—whether that order was accepted?

A. No, sir; I don't know of any such instanee.

RE-CROSS-EXAMINATION OF G. F. GILLAM.

Re-cross-examined by Mr. Manager Huston:

Question. Don't you know that upon the order that Mr. Hewitt had from Bathay which you say he did not carry the scrip with, that he was allowed to reserve on that order the full credit that he had, and then unload it and reserve again?

Answer. Well, I—

Q. Isn't that so?

A. Well, Hewit was allowed to reserve land on his order, certainly.

Q. He was allowed to reserve upon this order that did not carry the scrip with it, was he not?

A. Yes.

Q. To sell his land and then reserve again, was he not?

A. Yes, sir; that was allowed.

Mr. McGowan—Mr. President: I hold in my hand the statement made by Mr. Bours, in accordance with the request the other day, of the amount received in the Treasurer's Office

from plats, field-notes, and so forth, for the years 1869, '70–1–2. I ask that it may be put in evidence without calling the witness or detaining him over, if there is no objection.

Mr. Manager Huston—Let us see it.

Mr. McGowan—Yes, sir. I will state also that I have inadvertently put upon the bottom of it some pencil notes, which form no part of the statement.

Mr. Manager Huston—We have no objection, Mr. President.

The Presiding Officer—It will be received in evidence.

The following is a copy of the statement referred to:

[EXHIBIT RR.]

STATE TREASURER'S OFFICE,
Lansing, Mich., May 16, 1872.

STATEMENT of moneys received from the State Land Office for Fees, Plats, Field-Notes, etc., for each of the Calendar Years 1869, 1870, 1871, and 1872.

	1869.	1870.	1871.	1872.
January	$71 50	$68 75	$54 25	$294 45
February	69 45	88 00	111 00	399 24
March	57 45	67 00	88 85	274 50
April	75 00	105 75	478 76	328 70
May	81 00	79 00	309 89	.....
June	94 00	70 00	246 70	.....
July	185 00	68 15	146 95	.....
August	64 85	41 85	399 50	.....
September	89 00	88 00	252 45	.....
October	106 25	68 25	178 45	.....
November	82 20	1,982 80	347 90	.....
December	64 45	100 20	128 75	.....
	$1,089 65	$2,811 75	$2,738 45	$1,223 89

TESTIMONY OF C. L. ORTMAN.

C. L. Ortman, a witness, produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. Shipman:

Question. Mr. Ortman, where do you reside?

Answer. In the city of East Saginaw.

Q. What position do you hold there?

A. I am a lumberman.

Q. What official position, if any?

A. I am the mayor of the city of East Saginaw.

Q. Do you know Joseph Lawrence and M. E. Hitchings?

A. Yes, sir.

Q. Did you ever send either one of those men to look at lots five and six, or any land upon section 16, town 24 north, range 3 west, by Higgins' Lake?

A. Yes, sir.

Q. Won't you state the facts in regard to that,—what you did?

A. I sent Mr. Joseph Lawrence, with another man in my employ, in May, 1871, to examine some land in town 25, 3 and 24, 3 west, and amongst them they examined those particular lots in section 16, town 24, 3 west, and they returned at the end of May and made their reports, and I noted those reports and entered some land on their reports.

Q. On what section?

A. On different sections, in 25, 3 west, and some in 24, 3 west. I did not enter those two lots you mentioned. In the month of July, in the latter part of July, I sent Mr. Hitchings—M. E. Hitchings—to examine some other lands, and required of him to look at those particular lots on that section—section 16—that joins Higgins' Lake. Mr. Hitchings came back and reported to me what he had looked, and among them were those lots on section 16.

Q. Let me ask you now what their reports were,—whether they were for or against the land?

Mr. Manager Huston—Well, I object.

Mr. Shipman—What is your objection?

Mr. Manager Huston—My objection is that it is simply hearsay testimony. The witnesses have sworn, nevertheless, what their reports were; but I do not think it is competent for them to come into court and show by this witness what anybody may have said to him, and make testimony in that way.

The Presiding Officer—I think the witness may answer the simple question of whether they reported for or against. The evidence has already been received as to what the fact was.

Question. State what the report was,—whether for or against the land.

Answer. The report was that the land was not good, as far as the southern part was concerned. I think there were two lots south which were not good, while the northeastern and northwestern parts were good.

Q. Of the section?

A. Yes, sir.

Q. I mean as to lots five and six.

A. They were not good. It was so reported to me.

Q. Was there any particular reason why you wanted those lands?

A. I am a lumberman, and I wanted them for the purpose of having the pine lumber, if there was any on the land; and they stated there was none.

Q. Why did you want lots five and six specially?

Mr. Manager Huston—We object to that. We cannot see how that is competent. We do not see that it has any bearing upon the question, one way or the other, for what purpose he wanted them. He says that the report was unfavorable,—now why he wanted them, it seems to me, is not competent.

Mr. Shipman—It is not very material, but I wish to show that he wanted the lots, if they were worth having,—to show where his interest was in the matter.

Mr. Manager Huston—He never saw the land, and he says the report of those land-lookers was unfavorable, and that is all he knows about it.

The Presiding Officer—It seems to the Chair, that it might influence the directions given to his agents in regard to it, somewhat. I will allow the question to be answered. I will ask a vote of the Senate, if desired.

Mr. Manager Huston—I do not desire any vote.

By Mr. Shipman:

Question. Was there any particular reason why you wanted those lots five and six?

Answer. If you will allow me to show the plat-book, to see what lots five and six are—

[The plat-book is shown to the witness.]

Witness. I did not know five and six, for the reason—

The Presiding Officer—He did not ask you why you did not know them, but for what particular reason you wanted them.

A. I wanted them for the particular reason of pine timber.

Q. Had these men been looking land for you before?

A. Mr. Lawrence has looked land for me for a period of seven years.

Q. Mr. Hitchings?

A. Mr. Hitchings has looked land for me only two years.

Q. You say you entered some land upon that section, and other sections adjoining?

A. Yes, sir.

Q. Was it after that, and if so, what time after that?

A. I entered land in those two towns, or in a part in that town where this section of land is, in the month of May. I entered those particular lots in the month of August, afterwards.

Q. What lots do you mean now?

A. I mean lot number 1, on section 16, and the E. ½ of the N. W. ¼, and the N. E. of S. E. ¼, of section 16.

Q. Did you, at that time, say anything in the office to Mr. Barnard, with regard to these lots, five and six, being valuable for pine?

A. I said they were not valuable for pine.

Q. State what was said,—the conversation on that point.

A. Lots numbers five and six was open for entries, and Mr. Barnard asked me why I did not take it, and I told him they were not valuable enough to take them, so I did not take them.

CROSS-EXAMINATION OF CHARLES L. ORTMAN.

Cross-examined by Mr. Manager Huston:

Question. That was May 15th, 1871?

Answer. That was in the month of August.

Q. The entry shows that you entered these lands May 15, does it not?

A. I entered some lands in that town in May, but these particular lands I entered in the month of August, after Mr. Hitchings returned.

Q. When was it you had that conversation with Mr. Barnard?

A. It was when I entered the land in the month of August.

Q. You never saw those lands yourself?

A. No, I did not.

Q. All you know about the land is what these two land-lookers stated to you?

A. On the representation of my land-lookers.

Q. That is all you know about the land?

A. Yes, sir.

Q. Have you not known cases where land-lookers have reported lands not worth taking, and afterwards they were purchased, and found to be valuable for the timber that was on the land, by other parties? Have not you known of such cases occurring?

A. There will be such cases.

Q. Don't you know that there are numerous pieces of land in the pine country that have been looked, and thought not worth taking up, that were subsequently purchased and large quantities of pine obtained from the land,—the land found to be valuable?

A. Well, but Mr. Lawrence and Mr. Hitchings—

Q. I ask if you have not found in your experience, as a lumberman, that it was a fact that frequently lands that had been looked up by one party would afterwards be looked up and purchased by some other party, and found to be valuable?

A. I might be, but they were straightforward men—

Q. Have you not found that to occur in the judgment of land-lookers? Has that not been in the Saginaw country a matter of frequent occurrence,—that one man would not buy

because he thought there was not sufficient pine to warrant it, and another lumberman buy it and find it was good.

A. It may be; some men lack judgment; but good land-lookers understand pretty well what it is.

Q. Does it not occur from mistake?

By the Presiding Officer:

Question. Whether you know of such instances?

Answer. I do not know of any such instances, but it may have happened.

By Mr. Manager Huston:

Question. Have you not heard it talked of that such mistakes have happened?

Answer. I have heard of it in my experience, that men have made misrepresentations.

Q. Have you not known of pieces of land, eighty or one hundred and sixty acres, to be valuable for its timber, and only valuable for the timber upon it, and the timber be upon only fifteen acres of the piece; or all the valuable timber be on a few acres?

A. Such things exist.

Q. Do they not frequently occur?

A. I would not say frequently, but it exists sometimes,—the timber stands on fifteen or twenty acres of land.

Q. And sometimes on less than fifteen and still be worth taking?

A. It depends on the timber and the location.

Q. How much pine timber did you ever know to stand upon one acre of ground,—how many thousand feet?

A. You ask of my own knowledge?

Q. From your own knowledge;—yes.

A. I have seen acres of lands with only one, two, or three trees on an acre.

Q. Have you not seen where there are more than that?

A. I have land with fifteen, twenty, or forty trees on one acre.

Q. What would such an acre of land, if it was on the river, within a reasonable distance for banking—what would an acre of land, where there were some forty pine trees on it, be worth?

A. Those are exceptions.

Q. I ask you what would such an acre be worth?

A. I have seen lands selling from $1 25 up to as high as $30 an acre.

Q. Would not an acre of land that had forty trees upon it, that was within three miles of a river that had capacity sufficient for running the logs—would it not be worth more than $30 if it had forty pine trees such as would be fit for lumbering purposes?

A. Well, I have not heard of an instance yet where land has been sold—

Q. Take an acre of land with forty good pine trees upon it, it would be worth more than $30, would it not?

A. We are not in the habit of buying a single acre.

Q. I am asking you per acre?

A. It depends upon the quality of timber,—what it is.

Q. Good merchantable pine?

A. In parts of the country where the timber is sold by stumpage, I should rather say it would, but in some parts it is not usual to sell land for stumpage.

Q. What is it worth by stumpage?

A. We value the stumpage in the State of Michigan from fifty cents as high as three dollars per thousand, measured in board measure,—measured in saw-logs.

Q. There is a stream that runs from Higgins' Lake into the Muskegon river?

A. Yes, sir.

Q. So that logs can be banked in the lake?

A. Higgins' Lake has an outlet into the Muskegon river.

Q. It would be short hauling?

A. Yes, in this particular case the section joins the lake.

Q. The banking ground would be upon the same section of land?

A. Yes, sir.

RE-EXAMINATION OF CHARLES L. ORTMAN.

Examined by Mr. Shipman:

Question. I want to know what "stumpage" is?

Answer. It is an expression by lumbermen, which means timber cut into saw-logs and measured by a board rule,—this is called "stumpage."

Q. You speak of instances where you have known lookers to make mistakes in land as to pine. Did you ever know these mistakes to occur with Mr. Lawrence and Hitchings, in your experience with them?

A. I do not know of any such mistakes with them in my business.

RE-CROSS-EXAMINATION OF CHARLES L. ORTMAN.

Re-cross-examined by Mr. Manager Huston:

Question. Did you ever go and look the land over after Lawrence and Hitchings had looked it over, to see if there was a mistake?

Answer. I have.

Q. And you never found any mistake?

A. No, sir. We vary sometimes in our estimates.

Q. It generally varies, does it not?

A. Well, it is a matter of judgment.

The Presiding Officer—The following question, directed to Senator Waterbury, has been sent to the Chair, and the Secretary will read it:

Question. "In your testimony on page 324, in regard to lots five and six, Sec. 6, T. 24 N., 3 W., you stated that those lands were chiefly valuable for timber. Will you please state what, in your opinion, was the value of those lands for timber, when seen by you?"

Senator Waterbury—I did not consider them very valuable, and as to the exact value there was in them, I am not prepared

to say, for I did not look close enough, but I looked over that whole section and did not find an acre on the whole section that I thought would pay me for the timber. I did not consider them of any value for anything else. I was getting cheaper lands at that time.

By Mr. Manager Huston:

Question. You did not consider it valuable for anything else except the timber that was on it?

Answer. No, sir.

Q. That was four dollars an acre?

A. Yes, sir.

Q. How long ago was that?

A. Four years ago this spring, if my memory serves me right.

Q. What money you had to invest in lands, you could get better lands in the same neighborhood for?

A. I could not hardly say that.

Q. You could get swamp land in that neighborhood at a less price?

A. Yes. We had all the swamp we wanted to use; but we did not think it was worth that money at that time.

Q. You could get other land in that place that was better at a less price?

A. I could have done it, but I did not consider it worth it at that time, for timber.

Q. What did its value chiefly consist in?

A. My opinion is, that there was no value only for lumber. Whatever lumber there was on it was worth so much.

By Mr. Shipman:

Question. That river there, running into the Muskegon, was there, was it not?

Answer. Yes, sir.

M. O. ROBINSON, RECALLED FOR THE RESPONDENT.

Examined by Mr. McGowan:

Question. How long have you been a clerk in the Commissioner's office?

Answer. Since the first of November, 1868.

Q. How long have you been acting as chief clerk?

A. Since the first of May, 1869, I think.

Q. What form of order was allowed from contractors previous to Mr. Edmonds' administration?

A. A simple order to reserve would be accepted.

Q. What form of order is required now?

A. No order is, unless it carries what they call matured scrip with it.

Mr. Manager Huston—I understand those orders are in writing, and are a part of the records of the office. I submit whether it is not the better evidence to produce the orders, and let the Senate judge? I understand that they do not allow any application to be made for the reservation of lands,—that has been sworn to several times,—except in writing. Now, they are asking this witness what the form and effect of the order is. I submit, whether it would not be more satisfactory to this Court to have the legal proof?

The Presiding Officer—The written testimony would be the better testimony.

Mr. McGowan—I will explain, briefly, and I think the counsel will not object. We simply propose to show that the same form of order is now sent to the office that formerly was sent, a simple order that does not carry with it matured scrip, and in that case the land on the order is charged up on the contractor, and not to the party holding the order. If the party holding the order is to get any credit directly to himself, it is now the rule to require that the order itself contains the request to the Commissioner to patent the lands to the person holding it when the contract matures.

The Presiding Officer—You wish to introduce the testimony to show a change in the office?

Mr. McGowan—With regard to the practice, and not so particularly with regard to the form of the order.

Mr. Manager Huston—If they will introduce the order, I cannot see why they will not show the change. Let each class

of orders be introduced. They are under the control of the respondent. He holds the best evidence on that question.

The Presiding Officer—Parole testimony would be admitted to show the fact of the change, when the object of the testimony is not to show the contents of the order.

Mr. Manager Huston—The question goes further than that, not only that there has been a change, but what the effect of the change is.

Mr. McGowan—If the Honorable Manager so understands it, I will withdraw the question.

Question. State what the instructions are with regard to orders sent there by the contractors?

Answer. Receive no order unless it reads, "Patent the lands out of matured scrip."

Q. When were these instructions given?

A. I think last fall, sometime.

Q. State whether there has been any change in the form of the affidavit of abandonment, in the present administration?

A. There has.

Q. When was that change made?

A. It was made as early as April, 1871.

Mr. McGowan—I wish now to ask to identify some files which I wish then to offer in evidence.

Question. Will you open these papers and state what they are?

Answer. They are official letters to the office.

Q. Written by whom?

A. E. G. Goddard, in Saginaw.

Q. Will you look upon these files and state what they are?

A. They are the files of the office in Orson Bouch case.

Q. What is it you hold in your hand?

A. I hold the original letter to Charles Cornell, dated September 1, 1871, directed North Branch, Mich.

Q. In whose handwriting?

A. Deputy Commissioner Barnard's.

Q. I ask you if the letter is copied in the letter-book?

A. By the looks of the writing, I should say it has been.

Mr. McGowan—If there is no objection, I will offer the original letter.

Mr. Huston—I would rather see the letter-book.

Question. Will you look at the papers in that file?

Answer. With regard to the license to Henry Diamond,—applications, and so forth.

Q. Those are the office files in what is known as the Diamond case?

A. Yes, sir.

Q. The letter which you have been shown, directed to Conley, which you say was in Barnard's handwriting,—how did that letter get back to the office?

A. Returned, not called for by Mr Conley.

Q. When was the letter found?

A. A few days ago.

Q. Who found it?

A. I found it.

Q. Who opened it?

A. I opened it.

Q. State whether you made any examination of the envelope?

A. I did.

Q. Where is the envelope?

A. I could not say; it got lost somewhere.

Q. Have you made search for it?

A. I have.

Q. Was unable to find it?

A. Unable to find it.

Q. Did you notice the post-mark upon the envelope?

A. I did.

Q. State whether it corresponded with the date of the letter?

A. It did.

Q. State whether that letter was in the office,—found in the

office, and whether it was there examined, envelope and all, since Mr. Alderman testified in this case?

A. Yes, sir; I think it was.

Mr. Manager Huston—I thought you asked him about the Conley letter?

Mr. McGowan—The letter written by Barnard to Conley.

By Mr. McGowan:

Question. Found since Alderman testified?

Answer. Found since Alderman testified.

Q. Where did you find it?

A. I found it in a pigeon-hole which is left for returned letters.

Q. Among other returned letters?

A. Yes, sir.

Mr. McGowan—Now, if there is no objection, we offer in evidence the files and papers which we have identified by this witness.

By Mr. Manager Huston:

Question. Have you got the letter-book that has a copy of this letter in it?

Answer. I do not see it here,—I can get it.

The Presiding Officer—[To Managers.] Do you desire the book at this time?

Mr. Manager Huston—Yes, sir.

[A messenger was here sent for the letter-book.]

Mr. McGowan—Mr. President, we now offer in evidence, and will present to the Managers, the statement or opinion of Attorney General May, which was referred to in the examination of Obed Smith.

Mr. Romeyn—Upon what subject?

The Presiding Officer—In regard to the Obed Smith contract.

Mr. Manager Cochrane—We would like to understand the object of offering Mr. May's opinion here.

Mr. McGowan—It is simply this: Mr. Smith testified that the opinion was procured, and that Mr. Edmonds, after get-

ting the opinion, settled with him in accordance with the statements contained in that opinion. We offer it to show that Mr. Smith was somewhat mistaken.

Mr. Manager Cochrane—It is not offered for the purpose of showing that the Attorney General's opinion is the law, I suppose?

Mr. McGowan—Not at all; we would hardly claim that.

The Presiding Officer—Simply because it has been referred to by the witness?

Mr. McGowan—Simply because it has been referred to by the witness, and the Commissioner was caused to make a settlement with him.

The Presiding Officer—Is there any objection?

Mr. Manager Cochrane—We have no objection if it is simply for the purpose of showing that Mr. Smith may have been mistaken; I suppose that is competent?

The following is a copy of the opinion referred to:

[EXHIBIT SS.]

ATTORNEY GENERAL'S OFFICE,
Lansing, January 4, 1871.

Hon. Chas. A. Edmonds, Com'r State Land Office:

DEAR SIR: I have examined the question submitted to me by you, in the matter of Obed Smith, Esq., and reply to your interrogations as as follows:

1st. That if the orders given by Smith were for matured scrip, they were properly chargeable to him on his contracts. If they were given for land, then they should not be charged to him, except for the amount of land actually taken on the orders. That any order given by him could be revoked by him as to the amounts not actually taken on the order.

2d. That scrip issued to him on any of his contracts should be applied on the contract upon which issued, unless some change of contract was made and motive of the change given to the Commissioner, when all reservations on the entire contract, as amended, would be open for selection.

3d. It seems to me to be reasonable that the Commissioner should give notice to the contractor or his assignees, in case he has overdrawn on his contract.

4th. I think Smith can hold his land on unmatured scrip, which, when matured, would pay for such land. That is, he can hold what is then his due, after deducting all payments.

5th. I think Smith can hold the lands charged to him, and which have been allowed on his reservations, and that lands reserved on the amended contract are governed by it, so far as it is a new contract, except as modified by the second proposition above.

My answers to your questions are based upon what I understand has hitherto been the practice in your office, and what I deem to be a reasonable construction of the relations and duties of the parties to a swamp road contractor.

Respectfully yours,

DWIGHT MAY,

Attorney General.

Mr. McGowan—I will present to the reporter, consecutively, those files, if there is no objection.

Mr. Manager Grosvenor—Wait until we see the letter-book.

The Presiding Officer—Mr. McGowan, will you offer them separately, so that the Secretary may get them, and avoid confusion?

Mr. McGowan—Yes, sir.

[The letter-book referred to was here brought in, and handed to the Managers.]

Mr. McGowan—The Managers ask a little more time to look the files over.

The Presiding Officer—Let them take sufficient time to look them over.

Mr. Manager Grosvenor—Will the gentleman state what he proposes to prove by this letter from Wm. A. Barnard to Conley? We object to it, because it does not appear to have been forwarded; the original is here with the copy; it does

not appear to have ever been forwarded to the address. The witness testifies that he found the paper in the office. The letter-book indicates that this is the identical paper there copied.

The Presiding Officer—The Chair understood this witness to testify that it was returned; that he examined the envelope and found that it was returned, uncalled for, by Mr Conley. [To the witness.] Did you so state?

The Witness—Yes, sir.

By Mr. Manager Grosvenor:

Question. Was this in the envelope when it was found?

Answer. Yes, sir.

Q. Who was the envelope addressed to?

A. Charles Conley.

Q. Then what evidence have you that it was ever sent to Charles Conley? How do you know it was ever sent to Charles Conley?

A. I noticed the post-mark of Lansing, December 21st.

Q. When did you notice that?

A. I noticed it the other evening, when I found it in the office.

Q. Where is it?

A. As I said before, the envelope was mislaid or lost; I could not find it.

By Mr. Manager Huston:

Question. What other marks was there on the envelope? What other stamp?

A. I could not say with regard to the stamp. I noticed the mark on the envelope, "Returned to the writer."

Q. Nothing else excepting that?

A. I think there was a stamp, but I cannot swear anything about the stamp.

By Mr. Manager Cochrane:

Question. What are the marks on there?

Answer. "Returned to writer."

By Mr. Manager Huston:

Question. Was this an official envelope that had directions to return in ten days if not called for?

Answer. I cannot say as to the number of days, but it was an official envelope.

Q. What did it say about returning?

A. Return in ten or fifteen days. I cannot say; we had two classes of envelopes.

Q. You say this letter had got back into the office, and had not been opened at the time you found it?

A. That is what I said.

Q. Do you know when it came into the office?

A. I do not.

Q. Is it not the practice to open letters when they are returned, to know what they are about?

A. No, sir. I think not generally.

Q. Letters that are returned you do not open?

A. Where I have written letters they are thrown to me, and I open them; but that being written to Mr. Barnard, he did as he had a mind to with it.

Q. Did he not open the letter to see what was there,—whether there was anything inclosed.

A. He did not seem to open that one.

Q. How came you to find this, at this time?

A. I went to look for it.

Q. When was that?

A. I think it was night before last. I found it in the evening.

Q. Whereabouts was it you found it?

A. I found it in the pigeon-hole containing other returned letters.

Q. Is the pigeon-hole in Barnard's desk?

A. Over his desk.

Q. Were there other letters there, the same as this?

A. I cannot say.

Q. Why did you not keep the envelope when you found it?

A. I thought I was keeping it. I kept it with the letter, and it seems it got detached from the letter.

Q. Who detached it?

A. I think I took it out first. I think I handed the letter and all to the attorneys for the respondent.

The Presiding Officer—How much further do you wish to follow this?

Mr. Manager Huston—I want to find out about this letter.

Question. I want to know when it was you gave it to the attorneys for the respondent, and which one you gave it to?

Answer. Which one, I cannot say, but I think it was night before last that I found the letter and handed it to whichever it was. I cannot designate which one I handed it to.

Q. Inclosed in the envelope?

A. I cannot say whether I handed it inclosed in the envelope, or together.

Q. You gave them both papers?

A. Yes, sir.

RE-EXAMINATION OF M. O. ROBINSON.

Examined by Mr. McGowan:

Question. State whether there was not a mark drawn across the words "North Branch."

Answer. Yes, sir, there was.

Q. Did I not give you especial instructions to keep that envelope at that time?

A. I think you did.

Q. State whether there has not been a great deal of search for it since?

A. I have made a great deal. I have looked through the waste-paper basket, and inquired of the janitor, and made diligent search.

CROSS-EXAMINATION OF M. O. ROBINSON.

Examined by Mr. Huston:

Question. Why did you not keep it when he told you to keep it?

Answer. I left it at the office.

Q. That is no explanation.

A. I left it there.

Q. Then it was not returned to you, but left with the counsel for the respondent?

A. Yes, sir.

RE-EXAMINATION OF M. O. ROBINSON.

Examined by Mr. Shipman:

Question. You saw the letter after I had it, did you not,—the envelope and the letter?

Answer. Yes, sir.

RE-CROSS-EXAMINATION OF M. O. ROBINSON.

Examined by Mr. Manager Huston:

Question. You have not seen it since Mr. Shipman had it?

Answer. I have not seen it since that evening. I saw it a number of times that evening.

Q. In the counsel's possession?

A. Yes, sir.

The Presiding Officer—The Senator from the Sixteenth sends up the following question:

The Secretary will read the question.

The Secretary read the question, as follows:

"Is there a copy of the letter in the copy-book, in its regular order?"

Witness. There is, sir.

RE-EXAMINATION OF M. O. ROBINSON.

Examined by Mr. Shipman:

Question. Did you see that letter in the envelope after it was in my possession, and after it left my possession?

Answer. I saw it that evening; all the evening we had it there.

Q. Did I put it in my pocket, or take charge of it in any way?

A. I did not see you do any such thing.

Q. Was it not left in the office with instructions to be taken care of?

A. I think it was.

RE-CROSS-EXAMINATION OF M. O. ROBINSON.

Examined by Mr. Manager Huston:

Question. Which part of the office was that?

Answer. The private office of the Commissioner of the State Land Office.

Q. That has been the head-quarters of the respondent and the attorneys during this trial?

A. I don't know.

Q. Have they not been there every evening?

A. I have been there some.

Q. Have they not been there?

The Presiding Officer—I think we will suspend this.

Mr. Manager Huston—I think it is important that they should produce that envelope.

The Presiding Officer—I think this examination has gone far enough for this purpose.

The Senate will now take an informal recess for ten minutes.

AFTER RECESS.

The Presiding Officer—What disposition was made of the question that we had up just before recess?

Mr. Manager Huston—We have no objection to introduction of those two letters in evidence—those from Goddard.

The following is a copy of the letters offered and received in evidence:

[EXHIBIT 88.]

EAST SAGINAW, MICH, 29th Dec., 1871.

W. A. Barnard, Esq.:

MY DEAR SIR:—I enclose $60 on New York, and want the two fractions in S. E. corner of Sec. 16, T. 24 N., R. 3 W.

The fractions are 59.80 acres, I think. I enclose also $5 to buy a cigar for New Year's, and desire you to not let any of my reserved lands get rubbed out, and I further pray you to see generally that no calamity befalls me.

Oh, I enclose, also, deed that was made out to E. *J.* Goddard. I didn't notice the name until I sent it for record. My name is Ezra *G.*, and the J. got in by mistake. Can you change it?

With a merry Christmas and Happy New Year, and great love, I am

Most respectfully yours,

E. G. GODDARD.

Indorsed on the back as follows:

"Received at State Land Office, Lansing, Mich, Dec. 30, 1871."

EAST SAGINAW, MICH., 27th April, 1872.

W. A. Barnard, Esq.:

DEAR SIR—Enclosed please find draft of $60 to pay interest on school lands, as follows:

S. E. of S. E., Sec. 16, T. 14 N., R. 1 W., 40 acres (10602); N. ½ of N. W., and N. W. of N. E., T. 14 N., R. 1 E., 111 (10602). Sum due, $454.50. Date, 23d June. Time, 8 months and 7 days. Interest to March 1, 1872, $21.87.

Lots 4, and 5, and 6, Sec. 16, T. 24 N., R. 3 W. (10,831); Amount due, $179.40. Date, 30th Dec. Time, 2 months. Interest to March 1, 1872, $2.09.

N. E. of N. E., sec. 16, T. 15 N., R. 1 E. Amount due, $120. Date, Sept. 26th. Time, 5 months, 4 days. Interest to 1st March, 1872, $3.62. (10716.)

S. E. of N. W., S. ½ of N. E., the N. W. of S. W., and S. ½ of S. W. ¼, sec. 16, T. 16 N., R. 15 W. Amount due, $700.80. Date, August 14th, 1871. Time 6 months, and 16 days. Interest to March 1st, 1872, $26.56.

E. ½ of N. E. ¼, T. 16 N., R. 2 W. Date, 18th Jan. Amount due, $240. Time, 1 month, 12 days. Interest to March 1, 1872, $1.80.

Total amount $55.94.

I enclose the $60, for you to use the balance for the poor; and while you give, *feel*, and at last we shall all be saved from *damnation*. Yours truly,

E. G. GODDARD.

Cannot I send the money to you to buy scrip for me, when I conclude to take patents for my State land, reserved?

Indorsed on the back as follows:

"E. G. Goddard, April 27th, 1872. Draft of $60.00—$56.19—$3.81 returned with receipt.

"Filed May 9, '72."

Mr. Manager Grosvenor—I want to ask the witness one question more.

CROSS-EXAMINATION OF M. O. ROBINSON, RESUMED.

Cross-examined by Mr. Manager Grosvenor:

Question. In whose handwriting was the superscription upon the back of that letter? [Exhibit TT, found below.]

Answer. On the envelope?

Q. Yes, sir?

A. The same as *that*,—Deputy Commissioner Barnard's.

Mr. Manager Grosvenor—Now, the gentlemen are through with the preliminary testimony as to the admissibility of that letter. We wish to object to it, and we are ready to take it up and state our reasons for objecting, if they have no further preliminary proof upon it.

The Presiding Officer—The counsel will please state his objection.

Mr. Manager Grosvenor—This letter seems to have been copied regularly in the letter-book, in harmony with the date before and after, and in harmony with the pages in the book; there is nothing in that letter-book that would cast any suspicion upon this transaction; but there is something, we think, that is wanting to entitle this paper to come in as evidence. It is in testimony that this is in the handwriting of Mr. Barnard, Deputy; it was superscribed and made,—it was

superscribed on the outside by him, but there is not a particle of testimony here to show that it was ever mailed; there is nothing to inform the C ırt but what that transaction may have been of more recent date than what the counsel—

The Presiding Officer—[Interrupting.] Allow me to interrupt the gentleman. See if I am mistaken. I understood the witness to say that the envelope bore the post-mark of Lansing?

Mr. Manager Grosvenor—Yes, sir; but I did not understand that it was of the date and corresponded with this. He thought it bore the post-mark of Lansing. Now, there is something a little singular,—that Mr. Barnard has not been put upon the stand to say that he mailed that letter. He superscribed that letter, he inclosed it, and if it was mailed by due course of mail by the party who wrote it, it will be some indication that this was sent off in the ordinary course of business. It seems to me very extraordinary that this should appear just now when wanted; the envelope had never been opened, its contents never examined,—a returned letter to the office never had been examined until it was needed now,—until its disappearance casts some suspicion upon the office, then the letter appears. We think there should be something more than the testimony that has been given to warrant receiving that in evidence and inferring that it was sent and returned, particularly where the party who wrote the letter—who did all the business—has not been called to indicate that he mailed the letter or caused it to be mailed, or that he had any notice of its return. There is nothing here from which we can infer that there was any oversight or mistake about it. One would think, that a returned letter needed attention as much as a letter addressed to the office; and we say that, inasmuch as the writer of that letter has not been called to make any explanation upon the subject, is a suspicious circumstance; and then the losing of the envelope under the circumstances, which, if here, might indicate that somebody was mistaken about the date of the mailing of

that letter, if, in fact, it had ever passed through the office. This witness may be mistaken.

I do not charge anything upon him reflecting upon his truthfulness here. He found that, doubtless, as he states; but it is possible that it may have been put there for a purpose, and the envelope may have disappeared for a purpose. The important matter fixing this as proof is absent,—it is gone; and the man who should have knowledge of it is not put upon the stand to explain it in any way or shape. All this witness testifies to may be true, that he found that in an envelope in a pigeon-hole in the office; and it may be true that Mr. Barnard knows something about that, which we are not at liberty to inquire about, because he is not presented here.

We say where a paper is lost, has disappeared from the regular depository in the office, is not amongst its files, and seems to be found incidentally in the office, under the circumstances that this paper appears, with the mysterious disappearance of the envelope,—which is the ear-mark to detect fraud, if there is any,—the paper would detect nothing, nor the copy here would detect nothing, unless we have something more. That more is absent; we cannot find it. That envelope would enable us to judge, at once, whether it was a spurious mark, or not. The postmaster might be called in here, and indicate whether that was the genuine postoffice mark, and when it was put on. It is all left a presumption, unless there is positive proof.

The Presiding Officer—Wouldn't that be argument upon the sufficiency of the evidence, rather than upon its admissibility?

Mr. Manager Grosvenor—The proposition is upon the admissibility of the paper.

The Presiding Officer—Certainly; but isn't your argument really upon the sufficiency of the evidence,—not an argument against its admissibility?

Mr. Manager Grosvenor—I suppose it would tend in that direction. But if the proof sought here is insufficient, the

preliminary proof not having been made accounting for the absence of these papers, the deduction is at once clear that is not admissible. If the preliminary proof has not been made of the sufficiency of it, then of course it would not be admissible. For these reasons we object to it.

The Presiding Officer—The Chair will overrule the objection. If a vote is required I will take it. The objection is overruled.

The following is a copy of the paper offered and received in evidence:

[EXHIBIT TT.]

STATE OF MICHIGAN, STATE LAND OFFICE,
Lansing, December 21, 1871.

Charles Conley, Esq., North Branch, M.

DEAR SIR:—In reply to yours of the 9th inst., I have to say that it appears by the records of this office, that Sec. 2 of your license, No. 4719, for S. fl. ¼ of S. W. fl. ¼, Sec. 6, 10 N., 12 E., has never been complied with, and in consequence the license became void and of no effect after the expiration of the three months allowed by law for that purpose. The land, therefore, has been sold to Hoyt & Draper, of East Saginaw, on their application of the 14th inst.

Yours truly,

W. A. BARNARD,
Dep. Commissioner.

Mr. Manager Grosvenor—We have no objection to the admissibility of these papers as to the Bouch matter.

The following is a copy of the papers offered and received in evidence, marked by the Secretary as "Exhibit SS."

[EXHIBIT SS.]

APPLICATION FOR SETTLER'S LICENSE, UNDER THE ACT OF 1859.

To the Commissioner of the State Land Office of the State of Michigan:

The application of Orson Bouck, of Vernon, in the county of Shiawassee, in said State, respectfully shows that he is

twenty-one years old; that he is at the time of making this present application, actually and in good faith, a resident of Vernon in said county; that he is not the owner, in law or in equity, and has no legal or equitable claim to the title or right of possession of forty acres of land, situated in any State or Territory of the United States; that he intends to reside in this State, and to settle upon, and actually and personally to occupy, cultivate, and improve the following described tract of land, being parcel of the "Swamp Lands," belonging to the State of Michigan, situated and lying in the Township of Venice, in the County of Shiawassee, in said State, described in the public surveys made under the authority of the United States, as the N. W. ¼ of S. W. ¼ of Sec. 36, town seven north, of range four east, containing forty acres. He further shows that he has not heretofore, upon the application of himself, or of any person in his behalf, or for his benefit, directly or indirectly, obtained any license under the act hereinafter mentioned; and that he makes this application for the purpose of obtaining title to said tract under the act hereinafter mentioned.

And the said Orson Bouck presents to the Honorable the Commissioner of the State Land Office, this his application for a license to enter and settle upon, occupy, drain, and improve the above described tract or parcel of swamp land, according to the provisions of the act of the State of Michigan, entitled "An act to provide for the settlement and drainage of swamp lands by actual settlers," being act number two hundred and twenty-nine of the session laws of eighteen hundred and fifty-nine, and acts amendatory thereto; and the said applicant, for himself, his heirs, executors, and administrators, hereby agrees, to and with the State of Michigan, to observe and be bound by all and singular the provisions of said act, and of any other statute of the State, relating to said tract of land, not impairing his rights under said act, and faithfully to abide by, keep, and perform, and be subject to all the terms

and conditions of the license which may be obtained upon this, his application.

ORSON BOUCK.

Witness:

THOMAS PARENT.

STATE OF MICHIGAN, } ss.
County of Shiawassee, }

Orson Bouck, the person named in the foregoing application, to me well known to be the person therein named, being duly sworn by me, deposes and says that he has heard the above application, by him subscribed, read, and well knows the contents thereof, and that the facts therein stated are, to his own personal knowledge, true.

Sworn and subscribed before me, this 4th day of March, 1865.

JOHN N. INGERSOLL,
Notary Public for said County.

[5 cent rev. stamp, canceled.]

Indorsed on the back as follows:

"Application for settler's license under act of 1859. No. 4285.

"Name, Orson Bouck. Date, 4th March, 1865. Description,—N. W. ¼ of S. W. ¼, of Sec. 36, T. 7 N., R. 4. E. When license issued, Mar. 14, 1865.

"You may make another license for this."

No. 4285.

SETTLER'S LICENSE, UNDER ACT 106, APPROVED MARCH 7, 1861.

To all Whom these Presents shall Come:

Whereas, Orson Bouck, of Vernon, in the county of Shiawassee, has made application to the Commissioner of the State Land Office of the State of Michigan, under the act entitled "An act to amend an act entitled an act to provide for the settlement and drainage of swamp lands by actual settlers," approved March 7, 1861, and the acts amendatory thereto, for the privilege of entering and settling upon, occupying, draining, and improving that certain tract or parcel of the swamp

lands of this State, situated and lying in the township of Venice, in the county of Shiawasse, in this State, described in the public surveys, made under the authority of the United States, as the N. W. ¼ of S. W. ¼ of Sec. 36, T. 7 N., R. 4 E., containing 40 acres, and has made oath to said application, as required by law, and agreed for himself, his heirs, executors, and administrators, to observe and be bound by all and singular the provisions of said act and of any other statute relating to said tract of land not impairing his rights under said act, and faithfully to abide by, keep, and perform, and be subject to all the terms and conditions of this present License, which issues upon said application:

Now Know Ye, That I, the undersigned, Commissioner of the State Land Office, for and in behalf of the State of Michigan, do hereby license and authorize the said Orson Bouck to enter and settle upon, occupy, drain, and improve the above described tract or parcel of land, containing 40 acres, subject to the terms and conditions following, that is to say:

First. That said applicant shall enter into immediate possession and occupancy of said tract of land, and shall continue to reside upon, occupy, and improve the same for five continuous years.

Second. That said applicant shall, within three months from the date of this instrument, file with the Commissioner of the State Land Office a certificate from the supervisor of the township in which the land is located, together with his own affidavit, that he is in the actual possession and occupancy of such land.

Third. That in case it shall appear that he was, at the date of said application, the owner, in law or equity, of forty acres of land, in any State or Territory of the United States, and that his said application is, in this behalf, willfully and knowingly false, this license shall be deemed void from the beginning, and all his right, title, and claim to said tract, shall cease and become absolutely null.

Fourth. That said applicant has not heretofore, upon the application of himself or of any person in his behalf, or for his benefit, directly or indirectly, obtained any license under said act, or any other law of this State.

Fifth. That said applicant shall not cut, take, and carry away, upon or from said tract, any pine timber or other valuable timber, except for the sole purpose of clearing said land for actual cultivation; and in that case so much as may be necessary to improve said land, and no more. And, for the violation of this condition, he shall be liable to all the forfeitures, penalties, and liabilities of a tresspasser upon the State lands, as is now or as may hereafter be provided for by law.

On the breach of any one of which conditions, this license is to be void and of no effect in favor of said applicant.

And it is further provided, That if said applicant or settler shall not file his certificate and oath of settlement and occupancy, as above provided, or if the evidence of two witnesses, under oath, is furnished to the Commissioner of the State Land Office, that the clause above mentioned to prevent waste has been violated, then his claim shall be deemed as void, and the Commissioner of the State Land Office shall, from and after said time, sell said land the same as other swamp lands.

The said applicant is not at liberty to assign or transfer the present license; nor can he transfer his possession to another; and no person taking possession under him, either with or without his consent, will acquire any right whatever to said land; but in case of the death of said applicant before the expiration of this license, his heirs-at-law, if in the actual possession and occupancy of the tract, will be entitled to all his right, interest, and estate therein.

And the said applicant also stipulates and agrees with the State, that he will faithfully occupy the said tract of land, and will drain the same conformably to the above mentioned act, and to the provisions of the act of Congress therein referred to, for the purpose of obtaining title to said tract, as provided by law.

And in case the said applicant shall actually occupy and reside upon said tract for the period of five continuous years, and shall in all things comply with the above recited act of 1861, and keep and perform all and singular the provisions, terms, and conditions contained in this present license, he will at the end of that time be entitled to a certificate of purchase of said tract of land, and a patent therefor from the State.

In testimony whereof, I have hereunto set my hand and affixed my official seal, at Lansing, this 14th day of March, A. D. 1865.

CYRUS HEWITT,
Commissioner of the State Land Office.

PROOF OF SETTLEMENT AND OCCUPATION,

To Perfect Title to Lands Licensed under the Provisions of Act No. 220, Session Laws of 1859.

STATE OF MICHIGAN, } ss.
County of Shiawassee, }

On this first day of March, 1872, personally appeared before the undersigned, notary public for said county, Orson Bouck, who being duly sworn, according to law, deposes and says, in relation to land licensed to him on the fourteenth day of March, 1865, as per License No. 4285, describing land as follows: The N. W. ¼ of S. W. ¼, of Sec. 36, T. 7 N., of R. 4 E; that the same was for his own use, and for the purposes of actual settlement and cultivation, under the provisions of the act of the Legislature, approved February 15, 1859, "to provide for the settlement and drainage of swamp land, by actual settlers;" that he is now in the occupancy of said land, and has been residing thereon since the fourteenth day of March, 1865: That he has made the following improvements, to wit: A good log house, a good log barn, seven acres improved on said lot, well fenced, forty-five apple trees, and other shrubbery, and a good well of water. That he has drained the same as follows: A ditch forty rods on the low ground, north and

south, straight through the improvements, so as to comply with the provisions of said act No. 229.

ORSON BOUCK.

Subscribed and sworn to before me, this first day of March, 1872.

ELISHA KINSMAN,
Notary Public.

NOTE.—The above affidavits of settlement may be taken before a justice of the peace or notary public. The applicant must give a full description of the improvements, and of the manner in which the land is drained.

STATE OF MICHIGAN, } ss.
County of Shiawassee, }

Before the undersigned, a notary public in and for said county, personally appeared A. F. Chalker, a resident of said county, who being duly sworn, according to law, deposes and says, that he is well acquainted with Orson Bouck, who subscribed to the foregoing deposition, and knows him to be the identical person who obtained a license for the land described therein, and that he is now, and has been residing upon said land since the fourteenth day of March, 1865, and that his statement in regard to the improvements on said land, and the drainage thereof, is true.

A. F. CHALKER.

Sworn and subscribed to before me, this first day of March, 1872.

ELISHA KINSMAN,
Notary Public.

Indorsed on the back as follows:

"License No. 4285. Proof of settlement and occupation. Received March 2, 1872. Orson Bouck, Vernon, Shiawassee county. Patent handed to Van Dunham."

VENICE, Nov. 1, 1861.

The Commissioner State Land Office:

SIR—This is to certify that Orson Bouck made application to me, sometime in July, 1865, for a certificate of residence, which I gave him, I being at the time supervisor, and said Bouck hav-

ing a license for the N. W. ¼ of the S. W. ¼ Sec. 36, Town 7, 4 E.; and I also certify that the said Orson Bouck has continued to reside on said land up to the present time.

Yours, respectfully,

ASAHEL OWEN.

VERNON, Nov. 6, 1871.

We, the undersigned, do qualify and say that we are acquainted with Orson Bouck, and do know that he has lived on the northwest quarter of section 36, in town 7 north, of 4 east, and has lived on the same for the last six years or thereabouts, and cleared and fenced from seven to ten acres, or thereabouts, and built a comfortable log house, and log barn and stable, and set out an orchard and other shrubbery, and has also got a private road for half a mile, opened and traveled. All the above in the town of Venice, county of Shiawassee, State of Michigan. We and each of us do solemnly swear the within statement to be correct and true.

WILLIAM BROWN, A. W. SMITH,
GEORGE BROWN, LEVI SMITH,
LESTER T. BRUNO, JAMES BAIRD,
C. BIERES.

Sworn and subscribed to before me, a Justice of the Peace, Township of Vernon, Shiawassee County, State of Michigan.

Dated November 6, 1871.

C. C. CHALKER,
Justice of the Peace.

VENICE, Nov. 7, 1871.

I hereby certify that Orson Bouck has lived on the N. W. ¼ of S. W. ¼ of Sec. 36, 7-4, for the last six years, or thereabouts, and is now a resident of the above described land.

ALEXANDER STEWART,
Supervisor of the Township of Venice.

Mr. McGowan—We have already presented, and identified as a part of the files of the office, papers referring to the land occupied by a man by the name of Diamond, concerning whom and

whose land Mr. Bush was cross-examined. An affidavit made and signed by Bush was presented to him when he was on the witness stand, on the cross-examination, and he identified it as his affidavit.

There was also presented to him a letter which he wrote to Mr Barnard, a letter from Barnard to Ripley, and an affidavit from the supervisor.

Those three papers were tacked together. They were presented to him and identified by him as papers that had been in his possession.

The Presiding Officer—What is their relevancy to the license?

Mr. McGowan—I will add that, in addition to these papers, when I asked to present the whole file in the case, showing that this man Bush made an affidavit that Diamond had abandoned his land, that there were no improvements on the land. And by reason of that affidavit he secured the land to be sold to Ripley.

The files show that Diamond licensed his amount; that, within the three months required by law, he filed the necessary proof. I hold in my hand the statement,—what is called three months' proof;—and after Busch made this affidavit, there are the affidavits of four men in these files which are sent here to the office, and now form a part of the files of the State, that Diamond was still on the land,—the evidence all going to the unreliability of the witness Bush.

Mr. Manager Cochrane—We object to the introduction of this testimony, for the reason that there is nothing in these affidavits, treating them as affidavits, that go to impeach Mr. Bush. It was stated by the counsel here that Mr. Bush had made an affidavit setting forth that on the 18th of January, 1871, Diamond had abandoned this land, and that there were no improvements upon this land. The part to which the counsel refers reads that Diamond has abandoned the same, he has not resided upon State land for two years last past. That is all

there is of it. There is no statement in that affidavit that there were no improvements on this land.

That affidavit, the Court will remember, was made on the 18th of January, 1871.

Now, for the impeachment, by those affidavits, of the affidavit of Bush. I hold in my hand an affidavit of Diamond, that he is a settler upon this land, made in 1867. Of course there is no objection to that, if the counsel desire to introduce it. But let us look and see what these affidavits are. In the first place the affidavit by the supervisor is, technically speaking, no affidavit at all; but I will not make any objection on that ground. But it is an affidavit made nine months after, in the month of September, 1871, and it does not state,—any other day in the other affidavits is stated, or rather the other affidavit, for there is but a single one,—it is an omnibus affidavit, signed by four parties. I say neither the affidavit of the supervisor Markle, nor the omnibus affidavit, states that at the time this affidavit of Bush was made, on the 17th of January, 1871, was it occupied by him.

There is a statement in all these affidavits that there were improvements upon the land, but nothing further, except that at the time this Markle affidavit was made, it was occupied by Diamond. The other affidavit was made this year, in February, some thirteen months after. Now, it is not at all improbable that if Diamond, residing off this land, not occupying it as the law requires him to do, heard that any movement was being made for the purpose of taking away this land, either by Bush or by any other parties, that he may have rushed on to the land and occupied this little log house which is referred to in these papers.

If the statement of the parties who signed this affidavit be correct, this house was probably built prior to this time. Bush did not swear that the land was occupied by Diamond at the time this affidavit was made, nine months before the Markle affidavit; he simply swore that the land had been abandoned. None of the parties swore that the land was

occupied by Diamond at the time this affidavit was made, nine months before the Markle affidavit, and thirteen months before the omnibus affidavit.

The Presiding Officer—How can the Chair tell whether it has the tendency to impeach Bush, without knowing the contents?

Mr. Manager Cochrane—I suppose it cannot unless it takes my statement. I will read to the Court these affidavits, so that the Court can judge. The affidavit which I read is a copy of the Markle affidavit, made probably in the Land Office, as it has the Land Office stamp upon it. It has no name to it; no statement where it was signed,—either county, town, or State.

John Markle, being duly sworn, deposes and says: That he is supervisor of the township of Sheridan, in which the following described lands are situated, to wit: The S. ½ of N. E. ¼ Sec 4, T. 15 N., of R. 7 W., and that Henry Diamond who obtained license No. 4854, for said description, has not abandoned the same, and has worked on the same for the past three years and built a house before that time; it looks pretty old; and now occupies the same for his home. He has about three acres cleared, and about four acres cut down; making in all, about seven acres, and a crop this year. His neighbors tell me that he has had a crop on the place every year since he took the land. This can be proved by good witnesses. His neighbors also tells me that he has fulfilled, to the very letter of the law, and I have no doubt of that statement.

JOHN H. MARKLE.

Dated this 15th day of September, A. D. 1871.

ALLEN E. CLEMENT,

Justice of the Peace.

There is no particular evidence that John Markle ever swore to it; but we do not propose to object on any technical ground; we admit that is an affidavit; but there is no evidence that Bush ever occupied that land on the 18th of January, 1871.

Here is another affidavit, which reads as follows:

STATE OF MICHIGAN, } *Sheridan Township, Feb. 22, 1871.*
Mecosta County. }

We, the undersigned, being duly sworn, depose and say, that we are citizens of the township of Sheridan, in which the following described land is situated, to wit: The S. ½ of N. E. ¼ of Sec. 4, T. 15 N., R. 7 W., and that Henry Diamond, who obtained license No. 4854 for said description, has not abandoned the same, and has complied with the terms of said license and settled upon the land described therein as required by law; also, that he has improved the same by chopping about seven acres, and clearing nearly three acres of the seven, and raised crops thereon during the four years past, and by building a house thereon which he occupies as a home.

HENRY DIAMOND,
ZACHARIAH ONERLA,
ABRAHAM N. REED,
WILLIAM McCOMBS.

JACOB ISANHART,
Justice of the Peace.

This does not purport to be sworn to except at the head.

Now, you will perceive if there was any intention on the part of these parties, how craftily they have steered around the point made by Bush in his affidavit, namely, as to the abandonment of this land. They simply state, as a conclusion of law, that he had complied with the law. It was the business of these parties, if they wished to present an affidavit for the purpose of impeachment, or wished to satisfy the Commissioner that this land had not been abandoned to the State, to state the facts, and let him judge as to the abandonment, for the law makes him the officer who is to be such judge, to determine whether the land is to be put into the market again or otherwise.

Mr. McGowan—The Honorable Manager has overlooked one important paper in the file, to which I call the attention of the Court, and that is, a letter written by Bush after the Mar-

kle affidavit was presented to him, still insisting upon the facts contained in his affidavit.

Now, Markle's affidavit, the informality being waived on the part of the counsel making the objection, states that he has not abandoned the land, and states that he has complied with the terms of his license. The Court well know what the terms of the license are, and, if he has not abandoned it, the number of the license is given, the date will be found upon the license which has been admitted in evidence showing, that it was long after the supervisor's affidavit. Then if the man swore that he had complied with the terms of the license, Bush could have done nothing less than commit perjury when he swore to that affidavit.

I think the Manager can hardly charge these men, who can hardly read and write, with being crafty, and slipping around the formal part of the affidavit. The last affidavit says he has complied with the terms of the license; that he has settled upon the land in accordance with the terms of the license, if I understood the reading of the affidavit correctly. There can no other meaning be drawn from the affidavit than that the man settled upon the land and cultivated it, and therefore could not have abandoned it.

There is not only the evidence of the affidavit with regard to that matter, but the letter also. We offer this evidence to impeach the statement of Bush, contained not only in the affidavit and in the letter, but reiterated upon the stand.

Mr. Manager Cochrane—So far as the affidavit is concerned, there is no statement here that he complied with the terms of the license, so far as the letter is concerned, and the statement in the letter. We submit that it is not competent for this Court to impeach a person simply on the ground that he has made a misstatement in a letter. Still further: Is it not remarkable to attempt to impeach a witness upon the stand without putting in the countervailing witness,—to impeach them by affidavits of this kind. The thing was never heard of before, putting *ex parte* affidavits in evidence for the purpose of im-

peaching witnesses; and I presume my friends will not claim that that is a proper course of impeachment.

The Presiding Officer—Upon this question I will take a vote of the Senate. The question is, "Shall the files offered in evidence by the counsel be received in evidence?"

The roll was called by the Secretary, and the files were allowed to be offered in evidence, by yeas and nays, as follows:

YEAS.

Mr. Alexander,	Mr. Jenks,	Mr. Randall,
Barber,	Mann,	Sheley,
Begole,	Price,	Storrs,
Briggs,	Prutzman,	Wheeler,
Gay,		13

NAYS.

Mr. Ball,	Mr. Putnam,	Mr. Waterbury,
Cawley,	Romeyn,	Wood,
Dexter,	Stockbridge,	President
Moffatt,	Stoddard,	*pro tem.*,
Neasmith,		12

[EXHIBIT UU.]

PROOF OF ABANDONMENT, UNDER ACT 108, SESSION LAWS OF 1861.

STATE OF MICHIGAN, } ss.
County of Ingham, }

Wm. C. Bush, being duly sworn, depose and say that he is a resident of the town of Saginaw, in the county of Michigan, and State of Michigan, and that he is well acquainted with the following description of land, to wit: S. ½ of N. W. ¼ Section 14, town 15 north, range 7 west; and that Henry Dimon, who obtained license No. 4854 for said description, has abandoned the same, and has not resided upon said land for the two years last past.

W. C. BUSH.

Subscribed and sworn to before me, this 18th day of May, A. D. 1871.

M. O. ROBINSON,

Notary Public.

NOTE.—The affidavit to be made by the supervisor of the township, or by the party applying for the land.

[EXHIBIT UU.]

John A. Markle, being duly sworn, deposes and says, that he is supervisor of the township of Sheridan, in which the following described land is situated, to-wit: The S. ½ of N. E. ¼, sec. 4, town 15 N. of R. 7 W.; and that Henry Dimon, who obtained license No. 4854, for said description, has not abandoned the same, and has worked on the same for the past three years, and built a house before that time,—it looks pretty old,—and now occupies the same for his home. He has about three acres cleared, and about four acres cut down, making in all about seven acres, and a crop this year. His neighbors tell me that he has had a crop on the place every year since he took the land; this can be proven by good witnesses. His neighbors also tell me that he has fulfilled, to the very letter of the law, and I have no doubt of that statement.

JOHN A. MARKLE.

Dated this 15th day of September A. D., 1871.

ALLEN E. CLEMENT,

Justice of the Peace.

SHERIDAN, Oct. 4, 1871.

Mr. Wm. A. Barnard, Esq:

I received the enclosed affidavit and returned to John A. Markle, and he signed it without any hesitation whatever, and if you give me my claim please let me know soon as you can write, and please do not forget to write me, for whether you do or not I shall keep right on at work on it, and I will soon fix this thing all right through course of law if I can not get it without.

Yours truly,

HENRY DIMON.

York, Mich.

Everybody says that I am foolish for going to so much expense, for they say that I can hold it in spite of every thing.

[EXHIBIT UU.]

STATE OF MICHIGAN, } *Sheridan T'p, Feb. the 22d, 1872.*
Mecosta County. }

We, the undersigned, being duly sworn, depose and say that we are citizens of the township of Sheridan, in which the following described land is situated, to wit: the S. ½ of N. E. ¼ of Sec. 4, T. 15 N., R. 7 W., and that Henry Dimon, who obtained license No. 4854 for said description, has not abandoned the same, and has complied with the terms of said license, and settled upon the land described therein as required by law; also that he has improved the same by chopping about seven acres and clearing nearly three acres of the seven, and raised crops thereon during the four years past, and by building a house thereon, which he occupies as his home.

HENRY DIMON,
ZACHARIAH ONERLA,
ABRAHAM N. REID,
WILLIAM McCOMBS.

JACOB ISANHART,
Justice of the Peace.

STATE OF MICHIGAN, } ss.
Mecosta County. }

I, Charlie Gay, clerk of said county, and clerk of the circuit Court for the county of Mecosta, do hereby certify, that Jacob R. Isanhart, whose name is subscribed to the certificate or proof of acknowledgment of the annexed instrnment, and therein written, was, at the time of taking such proof or acknowledgment, a justice of the peace in and for said county, duly qualified and duly authorized to take the same; and further, that I am well acquainted with his handwriting and verily believe that the signature to the said certificate or proof of acknowledgment is genuine. I further certify that said instrument is executed and acknowledged according to the laws of this State.

In testimony whereof, I have hereunto set my hand
[L. S.] and affixed the seal of said county, at the city of Big Rapids, this 11th day of March, A. D, 1872.

CHARLIE GAY, *Clerk.*
By M. W. BARROWS, *Deputy.*

[EX. UU.]

EAST SAGINAW, Nov. 7, 1871.

W. A. Barnard, Esq., Dep. Com'r, Lansing, Mich.:

SIR:—In relation to Henry Dimon's claim on the S. ½ N. E. ¼, Sec. 4, T. 15 N., 7 West. His home is on the N. ½ S. W. ¼ of Sec. 4, a government homestead. And that there was up to the time I filed proof, no improvement on the same. He has since underbrushed about one acre, and has some sort of crop. There is a log pen, 8x10 and 6 feet high, which until this season has had neither door or roof; and where his crop was raised last winter, there was a crop of second-growth of soft maple and poplar so large that it would have taken at least four years to have grown there; and that which they claim is a clearing, would be called by a farmer a windfall burnt over some.

These are the facts in the case. He has never lived on the land according to law. He has a fair improvement on the N. ½ S. W. ¼, Sec. 4, where himself and family has always resided, and where he claimed to own now, since he has lived in this town. Until further, I remain

Yours respectfully,

W. C. BUSH.

[EXHIBIT UU.]

STATE OF MICHIGAN, STATE LAND OFFICE,
Lansing, October 13, 1871.

H. C. Ripley, Esq., E. Saginaw, M.:

DEAR SIR—It appears, as the proofs come in, that the S. ½ of N. E. ¼, Sec. 4, 15 N., 7 W., patented to Emma A. Ripley, Jan. 18, 1871, on proof of abandonment by W. C. Bush, has been occupied and improved by Henry Dimon, since the date of his license (March 2, 1867). I enclose a copy of an affidavit on file here, from John A. Markle, Supervisor, and have several letters here on file from Dimon, in which he claims to have complied in every with the terms of his license, and that the proof of abandonment by Bush is illegal. If so, the land

should be restored to Dimon, as he still occupies the land. Please call Bush attention to the proof, so that the matter can be arranged in some manner the next time you come to Lansing.

Yours truly,

W. A. BARNARD,
Dep. Com'r.

[EXHIBIT UU.]

[Copy.]

John H. Markle, being duly sworn, deposes and says: That he is supervisor of the township of Sheridan, in which the following described lands are situated, to wit: The S. ½ of N. E. ¼, Sec. 4, T. 15 N., of R. 7 W., and that Henry Dimon, who obtained License No. 4854, for said description, has not abandoned the same, and has worked on the same for the past three years and built a house before that time; it looks pretty old; and now occupies the same for his home. He has about three acres cleared and about four acres cut down, making in all about seven acres, and a crop this year. His neighbors tell me that he has had a crop on the place every year since he took the land. This can be proved by good witnesses. His neighbors also tell me that he has fulfilled to the very letter of the law, and I have no doubt of that statement.

JOHN H. MARKLE.

Dated this 15th day of September, A. D. 1871.

ALLEN E. CLEMENT,
Justice of the Peace.

[EXHIBIT UU.]

APPLICATION FOR SETTLER'S LICENSE, UNDER THE ACT OF 1861.

To the Commissioner of the State Land Office of the State of Michigan:

The application of Henry Dimon, of Leonard, in the county of Mecosta, in said State, respectfully shows that he is twenty-one years old; that he is at the time of making this present application, actually and in good faith, a resident of Leonard, in said county; that he is not the owner, in law or

in equity, and has no legal or equitable claim to the title or right of possession of forty acres of land, situated in any State or Territory of the United States; that he intends to reside in this State, and to settle upon, and actually and personally to occupy, cultivate, and improve the following described tract of land, being parcel of the "Swamp Lands," belonging to the State of Michigan, situated and lying in the township of Leonard, in the county of Mecosta, in said State, described in the public surveys made under the authority of the United States, as the S. ½ of N. E. fr. ¼ section 4 in T. 15 N. of R. 7 W., containing 80 acres. He further shows that he has not heretofore, upon the application of himself, or of any person in his behalf, or for his benefit, directly or indirectly, obtained any license under the act hereinafter mentioned; and that he makes this application for the purpose of obtaining title to said tract under the act hereinafter mentioned.

And the said Henry Dimon presents to the Honorable the Commissioner of the State Land Office, this his application for a license to enter and settle upon, occupy, drain, and improve the above described tract or parcel of swamp land according to the provisions of the act of the State of Michigan, entitled "An act to amend an act entitled 'An act to provide for the settlement and drainage of swamp lands by actual settlers,' being act number two hundred and twenty-nine of the session laws of eighteen hundred and fifty-nine," approved March 7th, 1866. And the said applicant, for himself, his heirs, executors, and administrators, hereby agrees, to and with the State of Michigan, to observe and be bound by all and singular the provisions of said act, and of any other statute of the State, relating to said tract of land, not impairing his rights under said act, and faithfully to abide by, keep, and perform, and be subject to all the terms and conditions of the license which may be obtained upon this, his application

HENRY DIMON.

Witness: C. E. SHEPARD.

STATE OF MICHIGAN, } ss.
County of Montcalm. }

Henry Dimon, the person named in the foregoing application, to me well known to be the person therein named, being duly sworn by me, deposes and says that he has heard the above application, by him subscribed, read, and well knows the contents thereof, and that the facts therein stated are, to his own personal knowledge, true.

Subscribed and sworn before me this 27th day of February, 1867.

C. E. SHEPARD,
Notary Pubtic for said County.

Filed as follows:

"Application for Settler's License, under the act of 1861. No. 4854. Name: Henry Dimon. Date: March 2d, 1867. Description: S. ½ N. E. fl ¼ sec. 4, T. 15 N., R. 7 W. When license issued: March 2d, 1867.

"Please direct Henry Dimon's license to Stanton, Montcalm Co., Mich., and much oblige,

"Respectfully yours,

"C. E. SHEPARD."

[EXHIBIT UU.]

STATE OF MICHIGAN, } ss.
County of Mecosta, }

Henry Dimon, of Big Rapids, in the county of Mecosta, being duly sworn, doth depose and say that he is the identical person named in Swamp Land License numbered 4854, issued by virtue of act 108, approved March 7th, 1861; that he is an actual resident upon, and in the possession and occupancy of the S. ½ of N. E fr. ¼ of Section 4, in township 15 N., R. 7 W., being the land described in said License, No. 4854, and has made the following improvements thereon, to wit: That he has built a log house and chopped one acre.

HENRY DIMON.

Subscribed and sworn to before me, this 20th day of May, A. D. 1867.

E. O. ROSE,
Notary Public.

STATE OF MICHIGAN, } ss.
County of Mecosta, }

I, ——, supervisor of the township of Leonard, county of Mecosta, do hereby certify that I am acquainted with the above-named settler, Henry Dimon, and the land described in the above affidavit, and that the said Henry Dimon is an actual resident on said land, and is in the possession and occupancy thereof.

Witness my hand, at the township of Big Rapids, county of Mecosta, this 20th day of May, A. D. 1867.

F. H. TODD,
Supervisor of said Township.

Filed as follows: "4854. Henry Dimon. Filed May 24, 1867."

Mr. Waterbury—Mr. President, I would like to correct an answer that I made when I was upon the stand before. The question was asked me if the Muskegon river was right by this land; I was thinking of the lake at the time,—my answer was "Yes." The Muskegon river is not in that township at all. My answer would be "No." I was thinking of the lake, and answered accordingly.

Mr. McGowan—What I wished to get at was, what water connection existed there, then?

Mr. Waterbury—Yes, sir; that was what I supposed; I answered without reflection.

Mr. Manager Huston—Is not there an outlet of the lake runs into the Muskegon?

Mr. Waterbury—Yes, sir; but the Muskegon river proper is not there,—it is the lake.

By Mr. McGowan: [To the witness.]

Question. What book do you hold in your hand?

Answer. The letter-book.

Q. For what year?

A. July 21st, 1871, to March 4th, 1272.

Q. State whether you find a copy of the Conley letter there

A. I find a copy of a letter directed to Charles Conley, December 21st, 1871; yes, sir.

Q. What is the date of the letter on the page preceding that?

A. The same date.

Q. The date preceding that?

A. December 20th, 1871.

Q. Now the page succeeding that letter?

A. December 21st, 1871.

Q. The next?

A. The same date.

Q. The next?

A. The same date.

Q. What is the next?

A. The same date.

Q. Look at that other letter-book. [Witness refers to book designated.] What book do you hold in your hand, now?

A. A bound volume of letters as received at the Land Office in 1871.

Q. State whether you find in that book a letter written by Theodore Day, from Detroit?

A. Yes, sir; there is one here,—several of them.

Mr. McGowan—Do the Managers wish to see the letter? If not, I shall ask the witness to read it in evidence.

Mr. Manager Grosvenor—I do not understand what bearing it has upon the case.

Mr. McGowan—It is the Kershner matter.

[The letter-book was shown to the Managers.]

Mr. McGowan—[To the witness.] Will you please read that letter?

The witness read the letter, as follows:

"UNITED STATES LAND OFFICE,
Detroit, January 26, 1871.

"*E. H. Porter, Esq:*

"DEAR SIR—Please reserve for Kershner & Ramsay, of

this place, for a week or ten days, if vacant, the N. E. ¼ of the N. W. ¼ of sec. 35, T. 35 N., of R. 1 E.

"Please let me know the present status of that piece.

"Very respectfully,

"THEODORE S. DAY."

Question. Turn forward and see if you find another letter relating to the same piece.

Answer. Yes, sir.

Mr. McGowan—I offer this letter in evidence without presenting it to the Managers. [To the witness.] Will you please read it?

The witness read the letter, as follows:

"UNITED STATES LAND OFFICE,
Detroit, February 7th, 1871.

"*E. H. Porter, Esq.:*

"DEAR SIR—Enclosed you will find fifty dollars in scrip to pay for the N. E. ¼ of the N. E. ¼ of Sec. 35, T. 35 N., of range 1 E. Issue a patent to Philip Kershner and Charles S. Ramsay, and send the same to me, and oblige,

"Yours, etc.,

"THEODORE S. DAY."

By Mr. McGowan:

Question. State whether you have examined the records with regard to the history of the S. ¼ of the N. E. ¼ of that same section?

Answer. I have, somewhat; yes, sir.

Q. Whether you find the name of a man by the name of Frost, in connection with it?

Mr. Manager Huston—Why don't you produce your record?

Mr. McGowan—We shall; we have sent for it.

The Witness—I could discover no such mark.

Mr. McGowan—The record?

Mr. Manager Huston—Yes.

Mr. McGowan—There are so many of the records to show the absence of a name.

Mr. Manager Huston—Produce your abstract, then. You have got it all abstracted?

Mr. McGowan:

Question. What do you say with regard to it,—whether you made any examination of the history of that lot of land?

Answer. I did, somewhat; yes, sir.

Q. Did you find Mr. Frost's name in connection with it, at all?

A. I could discover no such marks ever having been placed on the book.

Q. You have before you the plat-book, there?

A. Yes, sir; one of them.

Q. Is the section, upon Higgins' Lake, before you?

A. Yes, sir; one section.

Q. Will you state who first entered any land on that section? Give the number of the section and range, etc?

A. Sec. 16, T. 24 N., R. 3 W.

Q. Who first purchased any of that land?

A. N. Jerolaman.

Q. When?

A. October 23d, 1868.

Q. What kind of a purchase?

A. Cash purchase.

Q. Who entered the next piece, and when; and what kind of a purchase?

A. I am not certain about that name. It is not my writing, Grimes I should think,—J. A. Grimes; entered the same date, —October 23d, 1868.

Q. What kind of a purchase?

A. Full paid,—cash.

Q. The next piece?

A. Entered by Theodore Jerolaman.

Q. What kind of a purchase, and the date?

A. March 21st, 1870. Full paid,—cash.

Q. The next?

A. Entered by Ortman & Rothschild, August 21st, 1871.

Q. What kind of a purchase?

A. It was a full-paid, cash purchase.

Q. The next?

A. E. G. Goddard, December 30th, 1871.

Q. What pieces?

A. Lots five and six.

Q. Do you know the men who purchased all that land, on that section, with the exception of what Goddard got?

A. I don't know the man Grimes.

Q. Do you know the others?

A. I am acquainted with Jerolaman, somewhat.

Q. What kind of land does Jerolaman usually purchase?

A. Pine lands.

Mr. McGowan—We simply wish to identify the letters from Mr. Preston & Co., concerning this eighty acres spoken of in the Kershner case; then we shall be through with the witness. If the Managers choose, they can go on with the cross-examination now.

Mr. Manager Huston—Have you got the letters here?

Mr. McGowan—We have sent for them.

Mr. Manager Huston—I have sent for a letter-book that I would like to get before I commence the cross-examination.

Mr. McGowan—In that event, I will offer in evidence the official oaths of the clerks in the various departments of State here, as compiled by the Secretary of State, for the last three years inclusive.

Mr. Manager Huston—What is the object?

Mr. McGowan—The clerks in the Land Office, Secretary of State's office, Auditor General's office, and Treasurer's office.

The Presiding Officer—What is the object?

Mr. McGowan—To show what the practice has been with regard to having these clerks take any oath of office. The President and the Court will remember, that the prosecution have offered in evidence the affidavits of Mr. Barnard and Mr. Paddack, and the certificate of the Secretary of State, that there were no other oaths filed in his office, of

any clerks in the Commissioner's office, for Mr. Edmonds' administration. We want to show what the practice has been previous to his administration, in regard to that,—that we, at least, are not out of the beaten track; and not only so in the Land Office, but all the other offices. If there was any strength in the point made by the prosecution, that we had not sworn these clerks when we should, and filed their oaths away, that we were simply following in the beaten track; at least, that this was the practice not only in the Commissioner's office, but of the other offices, and has been for a term of years.

Mr. Manager Grosvenor—I do not see any relevancy about it, because these things are guided by statute. There is a particular statute guiding the filing of oaths by the officers in the Commissioner's office, and another in another department, and another in another. They are not under the same law; they are all guided and governed by separate laws, enacted for each particular office. Now, that they have not complied with another law bearing upon another office, will not tend to show that they have complied with this, or that they are excused for not complying with it. It does not tend to show anything. You might just as well show that the sheriff of this county had not taken the oath and filed his bond, it seems to me.

The Presiding Officer—All it might possibly show would be a lack of intent, on the part of the respondent, to do anything wrong.

Mr. McGowan—Mr. President, if that is the understanding of the Honorable Managers concerning the law governing this case, there will be some difference of opinion in regard to that. All we ask is that this evidence be simply put upon file here.

The Presiding Officer—Is there any objection to their simply being filed by the Secretary.

Mr. Manager Grosvenor—I will not object to that. I object to their going in as evidence here.

The Presiding Officer—They will simply be filed.

By Mr. McGowan:

Question. What became of that?

Answer. That is a volume of bound letters of 1871, received at the State Land Office.

Q. What letter is before you?

A. A letter from David Preston and Co., dated Feb. 11, 1871.

Mr. McGowan—We offer this letter in evidence.

[The following is a copy of the letter:]

[EXHIBIT WW.]

BANKING HOUSE OF D. PRESTON & Co.,
CORNER WOODWARD AVE. AND LARNED ST.,
Detroit, Feb. 11, 1871.

Hon. E. H. Porter, Dep. Com. S. L. O.:

DEAR SIR: Please locate in the name of Philip Kershner, of Detroit, the S. ½ of N. E. ¼ of Sec. 35, T. 35 N., R. 1 E., and charge our account, and send me the patent.

Yours truly,

DAVID PRESTON & CO.

Question. State whether that was patented to him in accordance with his request.

Answer. It was.

RE-CROSS-EXAMINATION OF M. O. ROBINSON.

Re-cross examined by Mr. Manager Huston:

Question. When was that letter received from Mr. Preston? Has it got the stamp on it?

Answer. No, sir; there was no official stamp in the office at that time.

Q. You cannot tell when it was received?

A. Not the date; no, sir. I can tell when the patent was made.

Q. Look in the letter-book and find the answer to Day's first letter, written January 26th, 1871.

A. [Refers to book.] I find no copy of the letter directed

to Theodore S. Day, between the dates January 26th and February 1st.

Q. Look and see if you find any copies of the letters in reply to Day's of February 27th, 1871.

A. I do not.

Q. You do not find any answer to either of them?

A. I do not.

Q. Was it a rule of the office to copy letters at that time?

A. Not of the nature of Mr. Day's letter.

Q. It was not the rule?

A. No, sir; at least it was not the habit.

Q. What was the peculiarity about Day's letter that the answer should not be copied in the letter-book?

A. It was simply an inquiry which the records would show at any time. You could infer what the answer naturally would be without looking at any copy.

Q. Do you say there are no letters copied in that letter-book that are answers to inquiries?

A. I presume there are some; once in a while one.

Q. Do they not frequently occur there?

A. Well, yes, there is quite a good many of them; I have not looked them over to see what the nature of the letters are that are written,—they may be inquiries and they may not. I will not say what they are. There are a good many copies.

Q. But you do not find either of those?

A. No, sir.

Q. You have been chief clerk since May 1st, 1869?

A. Yes, sir.

Q. What have been your duties?

A. I have made certificates of purchase, principally; attended to the "license department;" the issuing of licenses; issuing of patents; issuing of certificates of purchase entitling licensees to patents on their lands.

Q. Look upon this record and turn to the piece of land of Bouck's. [Handing witness the record of licensed lands.]

I refer to the piece in Gratiot county, sold to O. B. Clarke. I do not remember the date now.

A. I find the record.

Q. What is the number of the license?

A. 4611.

Q. What is the description of the land?

A. The S. ½ of the S. E. ¼, Section 32, T. 10 N., 1 W.

Q. Is there any writing, in pencil, on the first page?

A. Yes, sir.

Q. Will you read the pencil writing?

A. As pertains to this license?

Q. Read it.

A. "Abandonment filed by O. B. Clarke, Oct. 2d, 1871."

Q. Whose handwriting is that?

A. I am not sure whose it is.

Q. You are acquainted with Captain Edmonds' handwriting?

A. I am, somewhat.

Q. What do you say about that being his handwriting?

A. Well, I should say it resembled it, but, at the same time, I could not swear that it is his handwriting, or that it was not.

Q. Is it not your opinion that it is his handwriting?

A. I should say it looked very much like if.

Q. You are acquainted with his handwriting. I want your opinion as to whether it is his or not.

A. My opinion would be, it was his handwriting, from a certain point I see.

Q. Do you when that entry was made?

A. It is dated April 2, 1871; that is all I know about it.

Q. Is that the time the land was sold?

A. I do not remember.

Q. Do you know who purchased the proof of abandonment of that piece of land?

A. I do not remember now.

Q. Do you not remember that Clarke and Van Dunham

went up to Gratiot county and brought those proofs and presented them to the Commissioner?

A. I did not know anything about it. From the evidence, I see that they went themselves to look at it,—that is all I know about it. What I knew then and now are two different things.

Q. Have you got any order-books here,—orders for reserved lands?

A. No, sir.

Q. Can you produce some orders that you referred to in your testimony, in which you said the instructions were, that no orders should be received, except they provided for the patenting of land upon the maturity of the scrip?

A. You mean the whole class of orders?

Q. You say you had instructions to receive no orders to reserve lands, except the order has in it a provision that the land should be patented upon the maturity of the scrip?

A. Yes, sir.

Q. Now, have you got any such orders in the office?

A. I presume there are.

Q. Do you know there are any such?

A. I have not charge of that business.

Q. Have you ever seen any of that kind?

A. Yes, sir.

Q. Where?

A. I could not tell you an instance, but my memory is that I have seen them.

Q. You have seen the application that Hall made last November, to reserve Obed Smith's land?

A. I do not remember that I ever saw it in the world.

Q. You saw the application of Ripley, did you not?

A. I do not know whether I have ever read it over; I have seen it.

Q. Do you not remember when I read that application over in your presence in the office the other evening?

A. I guess I do, come to think of it.

Q. Was there any provision in that requiring that this land should be patented, if reserved.

A. I think not; the order ran to no one but himself.

Q. Then I understand you that a party can reserve for himself without having this provision?

A. On his own contract he can.

Q. I understand you that this provision that you speak of, with regard to which Edmonds gave you instructions, applies to contractors asking to have lands reserved to some third party?

A. When he gives the order to another party, to allow them to reserve land, giving the second or third party the benefit of some particular land on their contract, the order must specify that the patents must go with the reservations.

Q. What force is there in the party that draws the order, stating that the patents are to go with the reservations? Is not that entirely with the Commissioner?

A. The object, as I understand it, was to avoid large amounts of reservations going on the books, and nothing to warrant us to issue the patents to any one other than the original contractors.

Q. When were these instructions given you?

A. I think they were along last fall, sometime. I could not state.

Q. Did that apply to this general order that Hewitt had?

A. I think that order had not been received before these orders were promulgated.

Q. Then you do not know of any orders of that kind having been received since?

A. I say, I think I do,—I am quite positive I have seen them.

Q. You cannot tell any particulars?

A. I could not designate any particular order.

Q. Would that apply to a case where a party sells his scrip? Suppose a contractor sells a thousand dollars' worth of unmatured scrip?

A. Yes, sir, it would apply in that case. He would have the privilege of reserving the lands on the order, and holding them out of market until it should mature; and, on maturity, he would be entitled to patents on that order.

Q. I understand that he would be entitled to patents; but where unmatured scrip is sold in that way, do you require that the proviso should be put into the order that you refer to?

A. We do now.

Q. Will you look upon that book which you have, of the record of licensed land,—a few pages,—and see what proportion of licensed land the three months' proof were filed?

A. I should say half of them, probably,—maybe more, maybe less,—that the three months' proof had been filed:

Q. Will you look over a few pages and see how frequently patents have been issued to the licensee where the first proofs have not been filed?

A. I have no record that I can tell.

Q. But from what little examination you have made, you should say that in one-half of the cases of licensed land, the three months' proof were never filed?

A. Perhaps half,—maybe more or less.

Q. How many licenses have been issued in all?

A. 6,358 have been issued, or thereabouts.

Q. Can you tell me the first case where a piece of licensed land was sold without the proof of abandonment or non-settlement?

A. I could not.

Q. When did you have your first knowledge in regard to sales of that kind?

A. I think it was last summer or fall, sometime.

Q. Was it not in October?

A. I could not say positively when it was. It was last year, sometime.

Q. What is your best recollection about the time?

A. My recollection is that it was last year, sometime.

Q. Was not the sale the 19th of October, of the Bouch land in Shiawassee county, the first one that you had any knowledge of?

A. I could not say that it was.

Q. What other one did you have knowledge of?

A. I could not state an instance.

Q. Did you ever have any knowledge of any case except Bouch, Woolover, and Conley?

A. Yes, sir, they were frequently sold.

Q. Where they were sold without the proof of abandonment?

A. I sold a piece this morning.

Q. I am speaking of when you first commenced?

A. I have no recollection about it,—I could not designate the price.

Q. Were not those the first you had any knowledge of?

A. No. I would not say; I do not know anything about it.

Q. Prior to these sales, was it not the practice in the office to require proof of non-settlement or abandonment, before you sold licensed land?

A. That was the former rule.

Without any reference to whether three months' proof was filed, or not?

A. That used to be the practice.

Q. That was the rule?

A. Some sort of proof of abandonment or non-settlement.

Q. You required the same proof where the three months' proof had been filed, as where it had not been filed?

A. If we found, by looking on this book, that the licensee had filed his three months' proof, we certainly would not apply.

Q. That is not the question,—was there any difference in the rule, whether the three months' proof had been filed, or had not been filed?

A. There was no difference.

RE-EXAMINATION OF M. O. ROBINSON.

By Mr. McGowan:

Question. You say, at the time of Theodore Days letter, it was not the practice to copy such letters as would answer that?

Answer. It was not.

Q. State what the practice of the office now is.

A. Copy every letter.

Q. What are the instructions of the Commissioner with regard to copying letters now?

A. Copy all letters.

Q. State whether patents were issued to licensee men, where they did not file their three months' proof,—suppose they came around at the end of three or four years, and no one had applied for their land,—they came for their patents?

A. My own idea is that there have been cases where patents have been issued, where three months' proof has never been filed, on the proof of settlement.

Q. What is the fact with regard to putting the land in the market, now, immediately on the expiration of three months?

A. We do not sell them until about six months from the date of license.

Q. Just three additional months?

A. We calculate to give them that length of time.

Q. Who takes the letters to the postoffice from the Land Office?

A. The janitor.

RE-CROSS-EXAMINATION OF M. O. ROBINSON.

Examined by Mr. Manager Huston:

Question. I want to call your attention to a letter of Mr. Goddard, inclosing a draft of $60, for lots five and six, upon section 16, up north of here, the one referred to. I will ask you where you found that letter?

Answer. I never found it. I do not know anything about it.

Q. Do you know why it was not opened with the other letters for 1871?

A. I do not know anything about it.

Q. Did you not testify that there was a rule in the office not to tie up the letters received at the office, with reference to anything else except the business of the office?

A. I said it was discretionary with the party receiving them.

Q. It is discretionary, then, with the Deputy Commissioner, or with any of the clerks receiving letters in the office, with regard to the business of the office, to have the letters filed and finally opened or not, as they choose?

A. I think I testified that I used that discretion, but could not testify whether it was the fact with the other clerks or not. That is what I will testify now, whether I testified so, or not.

Q. Now, in that letter it states that there are five dollars inclosed for the Commissioner or Deputy,—I am not certain which it is,—directed to buy him a cigar?

A. You said so.

Q. I say that is the fact; the letter has been introduced in evidence. I would not say it if it was not so. That was in addition to the amount of money necessary to purchase the land. Is it the rule where letters of that kind are received, inclosing remittances in addition to the amount necessary to pay on the land, to not put them with the office files?

A. I do not know what the rule is.

Q. Do you do that way when you receive that kind of letters?

Mr. McGowan—It is rather an unfair assumption,—that is the assumption that he received them. It is not in evidence that he has received such letters.

Mr. Manager Huston—He can say, I think I have got one instance where he received two or three dollars more than was necessary to pay interest, and it is subject to his order to-day.

Question. Well, did you put that letter with the other letters?

Answer. I think it is.

Q. You find that, will you, so that we can have it this afternoon?

A. I will if I can.

Q. Now, I want to ask you if that is what you understand by the rule pertaining to other matters, where remittances in the way of gratuities are inclosed?

A. I think there is no rule about it.

Q. Well, I ask you whether that is what you mean by the letters referring to other matters,—that they need not be filed with the letters of the office?

A. I think there has never been anything said about it. I said I always used my own discretion about filing those letters; and with regard to other clerks, Deputies, I couldn't say.

Q. You do not know what Mr. Barnard's rule is?

A, No; I do not know anything about it.

Q. You remember when Col. Grosvenor was in the office looking for that Goddard letter, do you not, one morning here, before the Court opened?

A. Yes, sir; I do.

Q. And that it could not be found?

A. I don't know anything about it. I requested Mr. Griswold to look for it; I was very busy with something else; I didn't look for it.

Q. Did you understand that they were unable to find it, that time?

A. I noticed by the testimony that they were not able to.

Q. Did you not understand it there in the office?

A. I think I did not know anything about it.

Q. Do you know who found that letter?

A. I do not know anything about it.

Q. Nor where it was found?

A. Don't know anything about it.

Q. You say that the letter that you received to pay interest inclosed more than was necessary, and that you held the money subject to the order of the party?

A. I have been trying to think whether it was in 1869 or 1870, but it was a good while ago.

Q. You sent the receipt-book, didn't you, to Parker?

A. I notified him.

Q. Why did you not inclose the money?

A. I might, as I had sent him the exact amount to send, and he sent me two or three dollars more. I just simply remember the instance, that he wrote to me for the amount of interest due on lands. I gave him the exact amount. I think he sent a dollar or two more; I would not say whether it was a dollar, or two dollars. It was some time ago, I think in 1869 or 1870.

Q. Why did you not return the balance?

A. I did not know what he sent it for.

Q. You used the money, did you not, or pocketed it?

A. Oh, it was in my account.

Q. Have you got that money yet?

A. I have not got that identical money that I received.

Q. Did you put it away for him?

A. No, sir; put it in my pocket,—but he can have it at any time.

Q. Did you credit it to him on the books?

A. No, sir.

Q. Did you notify him that he could draw upon you for the amount?

A. I did.

RE-EXAMINATION OF M. O. ROBINSON.

Re-examined by Mr. McGowan:

Question. Do you know of certain swamp-lands being put upon the market that are called graduated swamp-land scrip?

Answer. I do.

Q. When was the first sale under that act?

A. The first sale was January 6, 1870.

Q. What were the lands sold for per acre at that time?

A. They were offered at eight dollars an acre.

Q. And what was the price graduated down to?

A. The 6th of July in 1870 they would be six dollars an acre.

Mr. Manager Huston—That is the statute.

Question. And were they offered for sale at that time?

Mr. McGowan—That statute gave discretion of time of sale to the Commissioner.

Mr. Manager Grosvenor—He is simply repeating the language of the statute.

Question. The next sale was July 6th?

Answer. Six months from the date of the first sale.

Q. The time would graduate six months after reducing the price of the land, according to law?

A. Yes.

RE-CROSS-EXAMINATION OF M. O. ROBINSON.

Re-cross-examined by Mr. Manager Huston:

Question. Won't the books show when that sale was?

Answer. We have books that will show.

Q. You do not pretend to fix the day of the sale, do you?

A. I do.

Q. It was six months after what time, then?

A. Six months after the 6th day of January, 1870.

Q. The sale was six months after January?

A. January 6th, 1870.

Q. I wish you would look now and see whether you are correct; I think you are in error about that.

A. I can bring the books to show you.

Q. Well.

TESTIMONY OF WILLIAM HUMPHREY.

William Humphrey, a witness, produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. McGowan:

Question. General Humphrey, you are the Auditor Generrl?

Answer. I am.

Q. How long have you acted in that capacity?

A. Since January 1st, 1867.

Q. The various accounts of the State are kept in your office?

A. Yes, sir.

Q. I ask you to make a statement to the Court, generally, of the nature of what is called scrip; its history, and whatever may pertain to it, necessary for the explanation?

A. Where shall I commence with the explanation?

Q. I wish you would begin with the contracts.

A. The contracts are let by the local commissioners, and approved by the Swamp Land State Road Commissioner,—contracts for completing the State swamp land roads. After the contract is made, and the contractor commences work, the business comes under the control of the Board of Control of State Swamp Land Roads. The work, and the matter pertaining to the contract, gets before the Board under what are termed acceptances. The first acceptance, "A," is the acceptance by the local commissioner, under a form adopted by the Board at a meeting held January 31st, 1867. Before that time, there was no form of this kind, the work was done under the management of a commissioner, or rather under the management of the Governor, or rather it was July 31st—I think I stated January 31st—that this form was adopted. It was adopted July 31st, 1867.

Q. Have you the form?

A. I have the form adopted by the Board at that time. The Board also at the same time adopted a form of certificate of satisfaction, that was to be filed with the Auditor General as the voucher on which he was to draw the swamp-land warrant. The first voucher and first form is an acceptance by the local commissioner. This form, when accepted by the local commissioner, was passed over to the General Commissioner, and was a notification for him to appear and examine the road as required by law. On his examination he made a certificate under the form that I have marked here as "B,"—the first

form I have marked "A"; his certificate is to the Auditor General of the completion of a certain number of miles of road under a certain contract by a certain party, giving the name of the contractor, and is signed—now by the Board of Swamp Land State Road Commissioners. Prior to 1871, was signed by the General Commissioner. Both of these papers go before the Board of Control of State Swamp Land Roads, and they are approved or disapproved by the Board, as the Board sees fit. The form "A,"—the acceptance by the local commissioner,—is filed in the office of the Commissioner of State Swamp Land Roads. Form "B"—the certificate of satisfaction, as it is termed in the law—passes into the hands of the contractor, after being approved by the Board, and this paper—form "B"—is brought by the contractor, to the Auditor General, and on this paper, properly approved, the Auditor General is required to draw his warrant.

Q. Have you the form of warrant?

A. Yes, sir.

Q. Have you lettered it or marked it?

A. I have marked it "C."

Q. "C?"

A. "C." The form marked "C" is a warrant, termed a swamp land warrant, and is drawn payable in swamp land,—payable to the contractor so many dollars in swamp land, in the Upper or Lower Peninsula, as the case may be,—signed by the Auditor General, and this paper is passed in to the State Treasurer. This warrant never goes out of the hands of the State officers; goes directly into the hands of the State Treasurer. On this warrant there is also a stub that is retained in the Auditor General's office. The stub is marked "D." When that paper passes into the State Treasurer's office, the State Treasurer gives a receipt for the amount,—I have it here,—marked "E." This receipt is printed on the page of a book that is kept in the Land Commissioner's office. The receipt is signed by the Treasurer and entered on his books, and also

countersigned by the Auditor General and entered on his books; and below the receipt, on the same page of the book, is a blank on which the lands entered under the receipt are entered. These papers are numbered. The form "B" is the voucher upon which the Auditor General draws his warant. That is numbered also. Form "C" (the warrant) is numbered, taking the same number of the form "B." The receipt is also numbered, taking the same number of the other papers, so that the refference from one to the other is complete.

The Presiding Officer—It is now twelve o'clock. The Senate setting as a Court of Impeachment will take a recess until two o'clock.

Friday, P. M., May 17, 1872.

The Senate met and was called to order by the President *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

Mr. McGowan—Before we proceed to further examine the witness, I wish to call attention to page 373 of the Impeachment Proceedings,—the right hand column, 17th line from the top. The record has done great injustice to a man, by bringing his name in a connection, that it could not possibly have been brought. In the proof the question was asked as to who was present in the room with a certain party,—the question was asked of Van Dunham, and in answer to the question, it is made to appear that the Commissioner, Mr. Clark, and *Mr. Robinson* was present. Now the last name should be "Johnson," instead of "Robinson," and that was the statement of the witness.

The Presiding Officer—The reporter will make the correction.

EXAMINATION OF WM. HUMPHREY, RESUMED.

Examined by Mr. McGowan:

Question. You were explaining the matter of scrip. If you know at what point you discontinued your testimony, please begin from that place?

Answer. I think I recollect. I think I was stating that the numbers on the "certificate of satisfaction," as approved by the Board of Control, the number on the swamp land warrant, and the number of the Treasurer's receipt corresponded. I will also add that this book on which these receipts are entered is paged. That is the first book or first volume in which these receipts were opened. On the first page was page one, and that the several books opened since have been paged consecutively with the first volume, in order that the numbers of the warrants might be consecutive and the number of receipt and the number of warrant correspond. I have here the last page of the 4th volume—it is No. 1169. To show the connection between the papers, I have numbered the several papers as they would be in the transaction. The page is 1169; the receipt is No. 1169; the certificate of satisfaction is numbered 1169, and the warrant is numbered 1169, and also the stub of the warrant; so that there can be no mistake in referring to the papers, or from one paper to another. The certificate of satisfaction is a paper approved by the Board of Control, that goes into the hands of the party in whose favor it is drawn,—the contractor or his assignee. As soon as approved by the Board of Control, it becomes the property of the assignee; it passes into his hands. When he sees fit, he brings it into the Auditor General's office, and asks for a warrant to be drawn for the amount of the certificate. A warrant is drawn and passed to the State Treasurer. It never goes out of the hands of the State officers,—the warrant does not. It is passed to the State Treasurer; he enters it on his book, under the head of "warrants." This would be warrant 1169, and passes the

amount of the credit on his warrant-book, or the book on which he keeps the amount of the warrant. He would also enter it in the swamp land. At the time this certificate of satisfaction goes into the hands of the Auditor General, it is entered up on his book, the amount charged against the proper road. The only account kept there, is with the road, and the voucher for the charge referred to placed on file. After the warrant is entered by the Treasurer, he makes a receipt; the receipt is kept on the book that then passes into the State Land Office, and is kept there. He acknowledges the receipt on the part of the State, and the number of dollars payable in swamp land, in the Lower Peninsula, or in the Upper Peninsula, or in some counties, as the law may designate, under which the contract is made. This receipt is signed by the State Treasurer, and countersigned by the Auditor General. It passes into the Land Office, and this receipt is what is termed swamp-land scrip. This receipt never goes into the hands of outside parties; it remains in the hands of the Land Commissioner. Against this receipt, outside parties draw orders in any amount they see fit.

The Presiding Officer—You mean it goes into the hands of the Commissioner of the Land Office.

The Witness—This book, containing these receipts, goes into the hands of the Commissioner of the State Land Office, and it shows that the State is indebted to these parties in the amount named. The State has received pay for the land to the amount mentioned in the receipt.

Mr. Manager Grosvenor [To the witness.]—Allow me to look at that last one.

The Witness—I did not have it before; I would like to leave now. It is marked "F."

Question. When this receipt of the Treasurer, which goes in the hands of the Land Commissioner, is finally canceled, is it always a fact that the road is then built; for the State has its pay for the land or money that is indicated in that receipt?

Answer. Yes, sir; the State had its pay by the amount of road constructed.

Q. You say that these acceptances, when made out, are handed over to the contractors.

A. As a matter of fact, I think they are sometimes passed over to them, and sometimes handed to the clerk in Swamp Land Road Commissioner's office, and he hands it to the Auditor General's office for the warrant;—sometimes one way and sometimes the other.

Q. That passes into the hands of the contractor, and he is not limited in the time he may carry it or hold it in his discretion?

A. Hold it in his discretion, as far as I know.

Q. Now, until he returns that acceptance, can he have any warrant for the land?

A. No, sir. No warrant, except upon this acceptance, than his voucher, made by law, upon which this is drawn.

Q. The contract may be completed, the job finished, and the contractor carrying in his pocket these acceptances?

A. Yes, sir.

Q. And yet there can be no patents issued for the land?

A. Lands cannot be drawn until they are paid for, and cannot be paid for until the warrant is drawn.

Q. Then in this way lands might be reserved a long time, without being patented up on these contracts, if the contractor got the patent and he carried it about without presenting it to the Auditor General's for warrant?

A. I should say so. I have no special knowledge on that point.

Q. I find that on page 490 of the proceedings of yesterday, in the testimony, in the exhibits, that certain documents that are put in there are called warrants. Will you state whether there are any warrants filed in the Commissioner's office?

A. There could not be.

Q. Then, if that testimony relates to the files in the Com-

missioner's Office, what is there, then, that corresponds with the warrants in the other office.

A. These receipts of the form of Exhibit E correspond in number with the number of warrants drawn; and referring to a warrant by numbers, would also refer to this receipt, and all the papers connected with the issuing of the warrants.

Q. Do you know whether this book in the Commissioner's office on which these receipts are printed and signed—whether they, in that office, call it the warrant-book or not?

A. I do not.

Q. Was there ever, during your administration, any contracts for road building or other things on which the State was to pay land, canceled?

A. Yes, sir.

Q. When?

A. At different times.

Q. When were the first ones canceled, and what was there about the cancelation of those?

A. I suppose it is in order with reference to the printed proceedings of the Board?

Q. Anything to refresh your memory.

A. I could not state, except the first, without looking very carefully through this report; but I find at the meeting in April, 1868, there was a general resolution introduced with regard to the matter.

Q. Providing for what?

A. Shall I read the resolution? It is as short as my answer would be: "Resolved, that all contracts, that by their terms expire on and before December 31, 1867, be canceled, to take effect July 1, 1868, unless evidence be furnished this Board, by that time, that the work is being performed in accordance with the late circular of the Swamp Land State Road Commissioner; and that notice of this action be given to the contractors by the Swamp Land State Road Commissioner." The report shows that that resolution was adopted.

Q. And whether under the provision of that resolution, any contracts were canceled, and if so, when, and about how many?

A. I could not tell you how many, as at that time these matters were brought to light only by considerable examination, and probably the whole matter has not come to the surface yet; but I find, under July 8, on one road,—Lexington and Flint River State road,—there were 17 contracts canceled; also, on the Midland and Au Sable State road there were three contracts canceled; on the Muskegon and Cedar Springs State road, one contract; Cass River and Bay City State road, one contract; Sanilac and Bay State road, four contracts; Almont and Cass River State road, one contract; Clio and Chesaning State road, two contracts; Sanilac and Tuscola State road, one contract; Tuscola and Saginaw Bay State road, two contracts. So many were canceled at one meeting. I found too, in turning over here very hurriedly, at the meeting on the 9th day of July, 1868, there was canceled on the Akron ditch, built by appropriation of swamp lands,—also under the control of the Board, —seven contracts. I have not looked any further for special matters.

Q. On these contracts that were canceled at these various times, had the lands been reserved in the Commissioner's office, to your knowledge?

A. To my knowledge, on a part of the contracts, there had lands reserved; because the reservation was a part of the three that were canceled. In other cases I have no personal knowledge of the matter.

Q. Will you explain what you mean by unmatured scrip?

A. Under the law, when a party takes a contract to build a swamp land road, as soon as his contract is accepted and placed on file, he has also to reserve lands to the full value of his contract. Orders against lands reserved by him are called unmatured scrip. This unmatured scrip has no value, except that the contract be completed.

By Mr. Manager Grosvenor:

Question. Has no value to buy land with, you mean.

Answer. Has no value.

By Mr. McGowan:

Question. What is that statement you hold in your hand?

Answer. It is a statement, giving an abstract of the names and the amount paid to clerks in the Land Office, each, in the year 1870, as shown by the vouchers on file in the Auditor General's office.

Q. What is the other one?

A. The other one is a statement, or rather a list of names, of clerks employed in the State Land Office during the year 1869, 1871, and for the first four months of 1872, with the satement of the amount paid the several clerks for each month.

Q. Were those lists and statements made up from the records of your office?

A. Yes, sir.

Q. And are correct?

A. They are correct, except that they are not copies. I would like to make an explanation. I wish to state in what manner. Until October, 1871, the pay account of each clerk was made up on a separate voucher, and paid in the same manner that any other claim against the State would be. At that time I drew a form for a pay-roll in the form in which these papers are made; and so far as they show the statements with regard to the clerks and amounts paid since October, 1871, they are copies. So far as they show the names of the clerks and the amount paid prior to that time, they are lists, merely giving the names of the clerks, the grade, the amount paid each month; they are not copies.

Mr. McGowan—I propose to offer them in evidence.

They are offered in evidence, and marked "Exhibit YY."

[EXHIBIT YY.]

STATE OF MICHIGAN, AUDITOR GENERAL'S OFFICE,
Lansing, May 2, 1872.

Hon. Charles A. Edmonds, Commissioner of the State Land Office, Lansing, Michigan:

SIR—In reply to your communication of this date, I have the honor to transmit herewith an abstract, giving the names, grade, and the amount paid clerks in the State Land Office for each month in the year 1870, as shown by the vouchers on file in this office.

Very respectfully, your obedient servant,

WM. HUMPHREY,
Auditor General, Michigan.

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF JANUARY, 1870.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	January.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. M. O. Robinson	Clerk.	"	75 00	M. O. Robinson....	75 00
4. W. A. Barnard..	"	"	75 00	W. A. Barnard.....	75 00
5. Elias Shafer.....	"	"	75 00	Elias Shafer.....	75 00
6. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
7. T. B. Jewell....	"	"	75 00	T. B. Jewell.....	75 00
8. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
9. Wm. Crosby....	"	"	75 00	Wm. Crosby.....	75 00
10. E. S. Porter.....	"	"	42 00	E. S. Porter.....	42 00
11. A. S. Stimson...	"	7 days.	20 87	A. S. Stimson.....	20 87

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE FOR THE MONTH OF FEBRUARY, 1870.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	February.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. M. O. Robinson.	Clerk.	"	75 00	M. O. Robinson.....	75 00
4. T. B. Jewell....	"	"	75 00	T. B. Jewell.....	75 00
5. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
6. William Crosby.	"	"	75 00	William Crosby....	75 00
7. W. A. Barnard..	"	"	75 00	W. A. Barnard.....	75 00
8. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
9. E. S. Porter.....	"	14½ days.	42 00	E. S. Porter.....	42 00
10. Elias Shafer.....	"	February.	42 00		

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF MARCH, 1870.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	March.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. W. A. Barnard..	Clerk.	"	75 00	W. A. Barnard.....	75 00
4. M. O. Robinson.	"	"	75 00	M. O. Robinson....	75 00
5. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
6. Elias Shafer	"	Feb. & Mar.	150 00	Elias Shafer.....	150 00
7. William Crosby.	"	March.	75 00	William Crosby....	75 00
8. T. B. Jewell....	"	"	75 00	T. B. Jewell.....	75 00
9. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
10. E. S. Porter.....	"	14½ days.	42 00	E. S. Porter.....	42 00

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF APRIL, 1870.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	April.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack..	Book-keeper.	"	88 88	H. L. Paddack.....	88 88
3. M. O. Robinson.	Clerk.	"	75 00	M. O. Robinson....	75 00
4. Elias Shafer.....	"	"	75 00	Elias Shafer.....	75 00
5. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
6. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
7. W. A. Barnard..	"	"	75 00	W. A. Barnard.....	75 00
8. William Crosby.	"	"	75 00	William Crosby	75 00
9. T. B. Jewell.....	"	"	75 00	T. B. Jewell.....	75 00
10. E. S Porter.....	"	14½ days.	42 00	E. S. Porter.....	42 00
10. A. S. Stimson...	"	April 1 to 8.	20 87	A. S. Stimson	20 87

PAYR-OLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF MAY, 1870.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	May.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack..	Book-keeper.	"	88 88	H. L. Paddack.....	88 88
3. M. O. Robinson	Clerk.	"	75 00	M. O. Robinson....	75 00
4. T. B. Jewell....	"	"	75 00	T. B. Jewell.....	75 00
5. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
6. Elias Shafer....	"	"	75 00	Elias Shafer.....	75 00
7. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
8. Wm. Crosby....	"	"	75 00	Wm. Crosby.....	75 00
9. W. A. Barnard..	"	"	75 00	W. A. Barnard.....	75 00
10. E. S. Porter....	"	14½ days.	42 00	E. L. Porter.....	42 00

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF JUNE, 1870.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	June.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. M. O. Robinson	Clerk.	"	75 00	M. O. Robinson....	75 00
4. Elias Shafer.....	"	"	75 00	Elias Shafer.....	75 00
5. W. A. Barnard..	"	"	75 00	W. A. Barnard.....	75 00
6. Wm. Crosby....	"	"	75 00	Wm. Crosby.....	75 00
7. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
8. T. B. Jewell....	"	"	75 00	T. B. Judd.....	75 00
9. E. S. Porter.....	"	14½ days.	42 00	E. S. Porter.....	42 00
10. A. S. Stimson...	"	27 to 30 inc.	11 64		
11. M. B. Kent.....	"	June.	75 00		

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF JULY, 1870.

NAME.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter	Deputy Com.	July.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. M. O. Robinson.	Clerk.	"	75 00	M. O. Robinson.....	75 00
4. William Crosby.	"	"	75 00	William Crosby	75 00
5. M. B. Kent.....	"	June & July	150 00	M. B. Kent	150 00
6. C. L. Knight....	"	July.	75 00	C. L. Knight.....	75 00
7. W. A. Barnard..	"	"	75 00	W. A. Barnard.....	75 00
8. A. S. Stimson ..	"	June 27 to July 12	42 99	A. S. Stimson	42 99
9. E. S. Porter.....	"	July.	42 99	E. S. Porter	42 99
10. T. B. Jewell....	"	1 to 12 inc.	29 06	T. B. Jewell.....	29 06
11. Elias Shafer.....	"	13½ days	42 33	Elias Shafer	42 33

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF AUGUST, 1870.

NAMES,	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	August.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack..	Book-keeper.	"	88 88	H. L. Paddack.....	88 88
3. M. O. Robinson.	Cletk.	"	75 00	M. O. Robinson....	75 00
4. A. S. Stimson...	"	"	75 00	A. S. Stimson.....	75 00
5. Wm. Crosby....	"	"	75 00	Wm. Crosby.....	75 00
6. Elias Shafer....	"	"	75 00	Elias Shafer.....	75 00
7. E. S. Porter.....	"	"	75 00	E. S. Porter.....	75 00
8. T. B. Jewell....	"	"	75 00	T. B. Jewell.....	75 00
9. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
10. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
11. G. B. Griswold..	"	Aug. 10 to 31 inclusivve.	54 91	Geo. B. Griswold..	54 91
12. W. A. Barnard..	"	August.	75 00	.....	

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF SEPTEMBER, 1870.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	September.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack..	Book-keeper.	"	88 88	H. L. Paddack.....	88 88
3. M. O. Robinson	Clerk.	"	75 00	M. O. Robinson....	75 00
4. Elias Shafer-....	"	"	65 00	Elias Shafer.....	65 00
5. Geo. B. Griswold	"	"	75 00	Geo. B. Griswold...	75 00
6. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
7. Wm. Crosby....	"	"	75 00	Wm. Crosby.....	75 00
8. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
9. W. A. Barnard..	"	Aug. & Sept	150 00	W. A. Barnard.....	150 00
10. E. S. Porter....	"	14½ days.	42 00	E. S. Porter.....	42 00
11. A. S. Stimson...	"	1 to 16, inc.	40 74	A. S. Stimson.....	40 74

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF OCTOBER, 1870.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	October.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. M. O. Robinson	Clerk.	"	75 00	M. O. Robinson....	75 00
4. Elias Shafer.....	"	"	75 00	Elias Shafer.....	75 00
5. Wm. Crosby....	"	"	75 00	Wm. Crosby.....	75 00
6. Wm. A. Barnard	"	"	75 00	Wm. A. Barnard....	75 00
7. E. S. Porter.....	"	"	75 00	E. S. Porter.....	75 00
8. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
9. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
10. Geo. B. Griswold	"	"	75 00	Geo. B. Griswold...	75 00

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF NOVEMBER, 1870.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	November.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. M. O. Robinson	Clerk.	"	75 00	M. O. Robinson....	75 00
4. Wm. Crosby....	"	"	75 00	Wm. Crosby.....	75 00
5. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
6. Geo. B. Griswold	"	"	75 00	Geo. B. Griswold...	75 00
7. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
8. Elias Shafer.....	"	"	75 00	Elias Shafer.....	75 00
9. W. A. Barnard..	"	"	75 00	W. A. Barnard	75 00
10. E. S. Porter.....	"	Nov. 1-16 in	40 00	E. S. Porter.....	40 00
11. T. B. Jewell	"	" 21-30 in	25 96	T. B. Jewell.....	25 96

PAY ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF DECEMBER, 1870.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	December.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. M. O. Robinson	Clerk.	"	75 00	M. O. Robinson....	75 00
4. T. B. Jewell....	"	"	75 00	T. B. Jewell.....	75 00
5. W. A. Barnard.	"	"	75 00	W. A, Barnard.....	75 00
6. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
7. Elias Shafer.....	"	"	75 00	Elias Shafer.....	75 00
8. G. B. Griswold..	"	"	75 00	Geo. B. Griswold..	75 00
9. Wm. Crosby....	"	"	75 00	Wm. Crosby.....	75 00
10. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
11. A. S. Stimson...	"	8 days.....	20 00		

STATE OF MICHIGAN, AUDITOR GENERAL'S OFFICE,
Lansing May 17, 1872.

Messrs. Shipman and McGowan, Attorneys, Lansing, Mich.:

GENTLEMEN—In response to yours of the 15th inst, I herewith transmit lists of the names of the clerks employed in the State Land Office during the years 1869 and 1871 and for the first four months of 1872, with a statement of amount paid the several clerks for each month.

Very respectfully,

WM. HUMPHREY.

PAY ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF JANUARY, 1869.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter.....	Deputy Com.	One Month.	$100 00	E. H. Porter.....	$100 00
2. D. M. Bagley.....	Book-keeper.	"	83 33	D. M. Bagley.....	83 33
3. Wm. A. Barnard.	Clerk.	"	75 00	Wm. A. Barnard....	75 00
4. A. E. Young.....	"	"	75 00	A. E. Young.....	75 00
5. H. S. Boutell....	"	"	75 00	H. S. Boutell.....	75 00
6. C. L. Knight.....	"	"	75 00	C. L. Knight.....	75 00
7. M. O. Robinson..	"	"	75 00	M. O. Robinson....	75 00
8. Wm. Crosby.....	"	20th to 31st	20 00	Wm. Crosby.....	20 00
9. G B. Griswold...	"	3 days.	3 68	G. B. Griswold.....	3 68

Clerks certified to by E. H. Porter, Deputy Commissioner.

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF FEBRUARY, 1869.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter ...,	Deputy Com.	One Month.	$100 00	E. H. Porter.....	$100 00
2. D. M. Bagley ...	Book-keeper.	Half "	41 66	D. M. Bagley.....	41 66
3. H. L. Paddack..	"	Half "	41 66	H. L. Paddack.....	41 66
4. Wm. A. Barnard	Clerk.	One Month.	75 00	Wm. A. Barnard....	75 00
5. A. E. Young	"	"	75 00	A. E. Young.....	75 00
6. M. O. Robinson.	"	"	75 00	M. O. Robinson	75 00
7. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
8. William Crosby.	"	"	75 00	William Crosby....	75 00
9. Henry S. Boutell	"	"	75 00	Henry S. Boutell....	75 00
10. D. M. Bagley ...	"	One day.	3 12	D. M. Bagley.....	3 12
11. M. B. Kent.....	"	Four days.	11 50	M. B. Kent.....	11 50

Clerks certified to by E. H. Porter, Deputy Commissioner.

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF MARCH, 1869.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the amounts opposite our respective names.	Amount paid.
1. E. H. Porter.....	Deputy Com.	One Month.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack...	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. Wm. A. Barnard.	Clerk.	"	75 00	Wm. A. Barnard....	75 00
4. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
5. Wm. Crosby.....	"	"	75 00	Wm. Crosby.....	75 00
6. M. O. Robinson..	"	"	75 00	M. O. Robinson....	75 00
7. A. E. Young.....	"	"	75 00	A. E. Young.....	75 00
8. H. S. Boutell....	"	"	75 00	H. S. Boutell.....	75 00
9. C. L. Knight.....	"	"	75 00	C. L. Knight.....	75 00

Clerks certified to by E. H. Porter, Deputy Commissioner.

PAY ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF APRIL, 1869.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter.....	Deputy Com.	One Month.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack...	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. Wm. A. Barnard.	Clerk.	"	75 00	Wm A. Barnard....	75 00
4. M. O. Robinson.	"	"	75 00	M. O. Robinson....	75 00
5. A. E. Young.....	"	"	75 00	A. E. Young.....	75 00
6. C. L. Knight.....	"	"	75 00	C. L. Knight.....	75 00
7. Henry S. Boutell.	"	"	75 00	Henry S. Boutell....	75 00
8. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
9. William Crosby..	"	"	75 00	William Crosby....	75 00

Clerks certified to by H. E.Porter, Deputy Commissioner.

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE FOR THE MONTH OF MAY, 1869.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter.....	Deputy Com.	One Month.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack...	Book-keeper,	"	88 88	H. L. Paddack.....	88 88
3. Wm. A. Barnard.	Clerk.	"	75 00	Wm. A. Barnard....	75 00
4. M. O. Robinson..	"	"	75 00	M. O. Robinson....	75 00
5. C. L. Knight.....	"	"	75 00	C. L. Knight.....	75 00
6. H. S. Boutell.....	"	"	75 00	H. S. Boutell.....	75 00
7. Wm. Crosby.....	"	"	75 00	Wm. Crosby.....	75 00
8. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00

Clerks certified to by E. H. Porter, Deputy Commissioner.

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF JUNE, 1869.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter.....	Deputy Com.	One Month.	$100 00	E. A. Porter.....	$100 00
2. H. L. Paddack...	Book-keeper.	"	88 88	H. L. Paddack.....	88 88
3. Henry S. Boutell.	Clerk.	"	75 00	Henry S. Boutell...	75 00
4. M. O. Robinson.	"	"	75 00	M. O. Robinson....	75 00
5. C. L. Knight.....	"	"	75 00	C. L. Knight.....	75 00
6. Wm. A. Barnard.	"	"	75 00	Wm. A. Barnard....	75 00
7. Wm. Crosby.....	"	"	75 00	Wm. Crosby.....	75 00
8. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
9. A. S. Stimson....	"	"	75 00	A. S. Stimson	75 00

Clerks certified to by E. H. Porter, Deputy Commissioner.

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF JULY, 1869.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter.....	Deputy Com.	One Month.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack...	Book-keeper.	"	88 88	H. L. Paddack.....	88 00
3. Wm. A. Barnard.	Clerk.	"	75 00	Wm. A. Barnard....	75 00
4. A. S. Stimson....	"	"	75 00	A. S. Stimson.....	75 00
5. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
6. H. S. Boutell....	"	"	75 00	H. S. Boutell.....	75 00
7. M. O. Robinson..	"	"	75 00	M. O. Robinson....	75 00
8. Wm. Crosby.....	"	"	75 00	Wm. Crosby.....	75 00
9. C. L. Knight.....	"	"	75 00	C. L. Knight.....	75 00

Clerks certified to by E. H. Porter, Deputy Commissioner.

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF AUGUST, 1869.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter.....	Deputy Com.	One Month.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack...	Book-keeper.	"	88 88	H. L. Paddack.....	88 88
3. Wm. A. Barnard.	Clerk.	"	75 00	Wm. A. Barnard....	75 00
4. M. O. Robinson..	"	"	75 00	M. O. Robinson....	75 00
5. H. S. Boutell.....	"	"	75 00	H. S. Boutell.....	75 00
6. A. S. Stimson....	"	"	75 00	A. S. Stimson.....	75 00
7. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
8. C. L. Knight.....	"	"	75 00	C. L. Knight.....	75 00
9. Wm. Crosby.....	"	"	75 00	Wm. Crosby.....	75 00

Clerks certified to by E. H. Porter, Deputy Commissioner.

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF SEPTEMBER, 1869.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	One Month.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. Wm. A. Barnard	Clerk.	"	75 00	Wm. A. Barnard....	75 00
4. M. O. Robinson.	"	"	75 00	M. O. Robinson	75 00
5. C. L. Knight....	"	"	75 00	C. L. Knight	75 00
6. M. B. Kent.....	"	"	75 00	E. B. Kent.....	75 00
7. William Crosby.	"	"	75 00	William Crosby.....	75 00
8. Henry S. Boutell	"	"	75 00	Henry S. Boutell ...	75 00
9. E. S. Porter.....	"	11 days.	33 34	E. S. Porter	33 34
10. A. S. Stimson...	"	1st to 18th.	58 33	A. S. Stimson	58 33

Clerks certified to by E. H. Porter, Deputy Commissioner.

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE. FOR THE MONTH OF OCTOBER, 1869.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	One Month.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. W. A. Barnard..	Clerk.	"	75 00	W. A. Barnard.....	75 00
4. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
5. Wm. Crosby....	"	"	75 00	Wm. Crosby.....	75 00
6. H. S. Boutell....	"	"	75 00	H. S. Boutell.....	75 00
7. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
8. M. O. Robinson	"	"	75 00	M. O. Robinson.....	75 00
9. E. S. Porter.....	"	14½ days.	42 08	E. S. Porter.....	42 08

Clerks certified to by E. H. Porter, Deputy Commissioner.

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF NOVEMBER, 1869.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	One Month.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. M. O. Robinson.	Clerk.	"	75 00	M. O. Robinson.....	75 00
4. Henry S. Boutell	"	"	75 00	Henry S. Boutell....	75 00
5. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
6. Wm. A. Barnard	"	"	75 00	Wm. A. Barnard....	75 00
7. William Crosby.	"	"	75 00	William Crosby.....	75 00
8. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
9. T. B. Jewell.....	"	16th to 30th.	80 00	T. B. Jewell.....	80 00
10. E. S. Porter.....	"	14½ days.	42 00	E. S. Porter.....	42 00

Clerks certified to by E. H. Porter, Deputy Commissioner.

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF DECEMBER, 1869.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	One Month.	$100 00	E. H. Porter.....	$100 00
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. M. O. Robinson	Clerk.	"	75 00	M. O. Robinson....	75 00
4. H. S. Boutell....	"	"	75 00	H. S. Boutell.....	75 00
5. T. B. Jewell.....	"	"	75 00	T. B. Jewell.....	75 00
6. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
7. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
8. Wm. Crosby....	"	"	75 00	Wm. Crosby.....	75 00
9. Wm. A. Barnard	"	"	75 00	Wm. A. Barnard....	75 00
10. E. S. Porter.....	"	"	42 00	E. S. Porter	42 00
11. Elias Shafer.....	"	½ month.	37 50	Elias Shafer.....	37 50

Clerks certified to by E. H. Porter, Deputy Commissioner.

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF JANUARY, 1871.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	One Month.	$116 66	E. H. Porter.....	$116 66
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. M. O. Robinson.	Clerk.	"	83 33	M. O. Robinson....	83 33
4. Elias Shafer.....	"	"	75 00	Elias Shafer.....	75 00
5. Wm. Crosby....	"	"	75 00	Wm. Crosby.....	75 00
6. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
7. W. A. Barnard..	"	"	83 33	W. A. Barnard.....	83 33
8. G. B. Griswold..	"	"	75 00	G. B. Griswold.....	75 00
9. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
10. Merritt Lewis...	"	6th to 31st.	42 35	Merritt Lewis.....	42 35
11. W. H. Porter...	"	7th to 31st.	41 50	W. H. Porter.....	41 50
12. J. B. Hamilton..	"	16th to 31st.	26 88	J. B. Hamilton.....	26 88
13. A. S. Stimson...	"	4 days.	12 00	A. S. Stimson.....	33 01

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF FEBRUARY, 1871.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	One Month.	$116 66	E. H. Porter.....	$116 66
2. H. L. Paddack..	Book-keeper.	"	83 33	H. S. Paddack.....	83 33
3. M. O. Robinson.	Clerk.	"	83 33	M. O. Robinson....	83 33
4. Wm. A. Barnard	"	"	83 33	Wm. A. Barnard....	83 33
5. Wm. Crosby....	"	"	75 00	Wm. Crosby.....	75 00
6. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
7. Elias Shafer.....	"	"	75 00	Elias Shafer.....	75 00
8. G. B. Griswold..	"	"	75 00	Geo. B. Griswold...	75 00
9. O. A. Bowen....	"	6th to 28th.	61 64	O. A. Bowen	61 64
10. Van Dunham....	"	6th to 28th.	61 64	Van Dunham.....	61 64
11. J. B. Hamilton..	"	One Month.	60 00	J. B. Hamilton.....	60 00
12. Merritt Lewis...	"	"	50 00	Merritt Lewis.....	50 00
13. W. H. Porter....	"	1st to 10th.	16 70	W. H. Porter.....	16 70
14. C. L. Knight....	"	One Month.	75 00	C. L. Knight.....	75 00

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF MARCH, 1871.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names	Amount paid.
1. E. H. Porter.....	Deputy Com.	One Month.	$116 66	E. H. Porter.....	$116 00
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. M. O. Robinson	Clerk.	"	83 33	M. O. Robinson.....	83 33
4. Van Dunham...	"	"	75 00	Van Dunham.....	75 00
5. O. A. Bowen....	"	"	75 00	O. A. Bowen.....	75 00
6. G. B. Griswold..	"	"	75 00	G. B. Griswold.....	75 00
7. Elias Shafer.....	"	"	75 00	Elias Shafer.....	75 00
8. Wm. Crosby....	"	"	75 00	Wm. Crosby.....	75 00
9. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
10. Wm. A. Barnard	"	"	83 33	W. A. Barnard.....	83 33
11. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
12. J. B. Hamilton..	"	"	60 00	J. B. Hamilton.....	60 00
13. Merritt Lewis...	"	"	60 00	Merritt Lewis.....	60 00

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF APRIL, 1871.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	One Month.	$116 66	E. H. Porter.....	$116 66
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. M. O. Robinson.	Clerk.	"	83 33	M. O. Robinson....	83 33
4. W. A. Barnard..	Draughtsman	"	83 33	W. A. Barnard.....	83 33
5. Elias Shafer.....	Clerk.	"	75 00	Elias Shafer.....	75 00
6. O. A. Bowen....	"	"	75 00	O. A. Bowen.....	75 00
7. Van Dunham...	"	"	75 00	Van Dunham.....	75 00
8. Geo. B. Griswold	"	"	75 00	Geo. B. Griswold...	75 00
9. J. B. Hamilton..	"	"	75 00	J. B. Hamilton	75 00
10. Merritt Lewis...	"	"	65 00	Merrit Lewis.....	65 00
11. William Crosby.	"	1st to 19th.	48 82	William Crosby....	48 82
12. A. S. Stimson...	"	1st to 8th.	20 37	A. S. Stimson.....	20 37
13. C. L. Knight....	"	One Month.	75 00	C. L. Knight.....	75 00
14. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF MAY, 1871.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. E. H. Porter....	Deputy Com.	One Month.	$116 66	E. H. Porter.....	$116 66
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. M. O. Robinson	Clerk.	"	83 33	M. O. Robinson....	83 33
4. W. A. Barnard..	"	"	83 33	W. A. Barnard.....	83 33
5. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
6. H. B. Turner ...	"	"	50 00	H. B. Turner.....	50 00
7. Geo. B. Griswold	"	"	75 00	Geo. B. Griswold...	75 00
8. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
9. Elias Shafer.....	"	"	75 00	Elias Shafer.....	75 00
10. J. B. Hamilton..	"	"	75 00	J. B. Hamilton.....	75 00
11. Van Dunham ..	"	"	75 00	Van Dunham.....	75 00
12. O. A. Bowen....	"	"	75 00	A. O. Bowen	75 00
13. Meritt Lewis ...	"	"	75 00	Meritt Lewis	75 00

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF JUNE, 1871.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. W. A. Barnard..	Deputy Com.	One Month.	$116 66	W. A. Barnard.....	$116 66
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. Van Dunham....	Draughtsman	"	83 33	Van Dunham.....	83 33
4. M. O. Robinson.	Clerk.	"	83 33	M. O. Robinson....	83 33
5. C. L. Knight....	"	"	75 00	C. L. Knight.....	75 00
6. G. B. Griswold..	"	"	75 00	G. B. Griswold.....	75 00
7. M. B. Kent.....	"	"	75 00	M. B. Kent.....	75 00
8. O. A. Bowen....	"	"	75 00	O. A. Bowen.....	75 00
9. J. B. Hamilton..	"	"	75 00	J. B. Hamilton.....	75 00
10. Elias Shafer....	"	"	75 00	Elias Shafer.....	75 00
11. G. F. Gillman...	"	"	75 00	G. F. Gillman.....	75 00
12. Merritt Lewis...	"	"	75 00	Merritt Lewis	75 00
13. H. B. Turner....	"	"	60 00	H. B. Turner.....	60 00
14. W. H. Burdick..	"	19th to 30th	26 00	W. H. Burdick.....	26 00
15. A. S. Stimson...	"	26th to 30th	12 50	A. S. Stimson.....	12 50

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF JULY, 1871.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. W. A. Barnard..	Deputy Com.	One Month.	$116 66	W. A. Barnard.....	$116 66
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. M. O. Robinson.	Reg. Clerk.	"	83 33	M. O. Robinson....	83 33
4. Van Dunham....	Draughtsman	"	83 33	Van Dunham.....	83 33
5. C. L. Knight....	Clerk.	"	75 00	C. L. Knight.....	75 00
6. Geo. F. Gillam..	"	"	75 00	Geo. F. Gillam.....	75 00
7. G. B. Griswold..	"	"	75 00	G. B. Griswold.....	75 00
8. Elias Shafer.....	"	"	75 00	Elias Shafer.....	75 00
9. Merritt Lewis...	"	"	75 00	Merritt Lewis.....	75 00
10. A. S. Stimson..	"	"	75 00	A. S. Stimson.....	75 00
11. O. A. Bowen....	"	"	75 00	O. A. Bowen.....	75 00
12. J. B. Hamilton..	"	"	75 00	J. B. Hamilton.....	75 00
13. H. C. Clarke....	"	15th to 31st.	37 50	H. C. Clarke.....	37 50
14. H. B. Turner....	"	One Month.	60 00	H. B. Turner.....	60 00
15. M. B. Kent.....	"	5 days.	62 50	M. B. Kent.....	62 50
16. W. H. Burdick..	"		65 00	W. H. Burdick.....	65 00
17. I. S. Lampman..	"	17th to 31st.	25 00	I. S. Lampman.....	25 00

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF AUGUST, 1871.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. W. A. Barnard..	Deputy Com.	One Month.	$116 66	W. A. Barnard.....	.....
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	.....
3. Van Dunham...	Draughtsman	"	83 33	Van Dunham.....	.....
4. M. O. Robinson	Reg. Clerk.	"	83 33	M. O. Robinson....	.....
5. C. L. Knight....	Clerk.	"	83 33	C. L. Knight.....	.....
6. O. A. Bowen....	"	"	83 33	O. A Bowen	.....
7. Geo. B. Griswold	"	"	83 33	Geo. B. Griswold...	.....
8. Merritt Lewis...	"	"	75 00	Merritt Lewis.....	.....
9. Geo. F. Gillam..	"	"	75 00	Geo. F. Gillam	.....
10. J. H. Hamilton..	"	"	75 00	J. H. Hamilton	.....
11. A. S. Stimson...	"	"	75 00	A. S. Stimson.....	.....
12. Henry C. Clark .	"	"	75 00	Henry C. Clark.....	.....
13. Elias Shafer.....	"	"	75 00	Elias Shafer.....	.....
14. H. B. Turner....	"	"	70 00	H. B. Turner.....	.....
15. W. H. Burdick..	"	"	70 00	W. H. Burdick.....	.....
16. I. S. Lampman..	"	"	60 00	I. S. Lampman.....	.....
17. M. B. Kent	"	½ Month.	50 00	M. B. Kent	.....

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF SEPTEMBER, 1871.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1, W. A. Barnard..	Deputy Com.	One Month.	$116 00	W. A. Barnard.....	$116 00
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. M. O. Robinson	Reg. Clerk...	"	83 33	M. O. Robinson....	83 33
4. Van Dunham...	Draughtsman	"	83 33	Van Dunham.....	83 33
5. Elias Shafer.....	Clerk.	"	75 00	Elias Shafer.....	75 00
6. J. B. Hamilton..	"	"	75 00	J. B. Hamilton.....	75 00
7. O. A. Bowen....	"	"	83 33	O. A. Bowen.....	83 33
8. C. L. Knight....	"	"	83 33	C. L. Knight.....	83 33
9. H. C. Clarke	"	"	83 33	H. C. Clarke.....	83 33
10. Geo. B. Griswold	"	"	83 33	Geo. B. Griswold...	83 33
11. I. S. Lampman..	"	"	60 00	I. S. Lampman.....	60 00
12. H. B. Turner....	"	"	70 00	H. B. Turner.....	70 00
13. Geo. F. Gillam..	"	"	75 00	Geo. F. Gillam.....	75 00
14. A. S. Stimson...	"	"	75 00	A. S. Stimson.....	75 00
15. W. H. Burdick..	"	"	75 00	W. H. Burdick.....	75 00
16. Merritt Lewis...	"	"	75 00	Merritt Lewis.....	75 00

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF OCTOBER, 1871.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. W. A. Barnard..	Deputy Com.	One Month.	$116 66	W. A. Barnard.....	$116 66
2. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
3. M. O. Robinson.	Reg. Clerk.	"	83 33	M. O. Robinson....	83 33
4. Van Dunham....	Draughtsman	"	83 33	Van Dunham.....	83 33
5. Henry C. Clarke	Clerk.	"	83 33	Henry C. Clarke....	83 33
6. O. A. Bowen....	"	"	83 33	O. A. Bowen.....	83 33
7. Geo. F. Gillam..	"	"	83 33	Geo. F. Gillam.....	83 33
8. C. L. Knight....	"	"	83 33	C. L. Knight.....	83 33
9. G. B. Griswold..	"	"	83 33	G. B. Griswold.....	83 33
10. H. B. Turner....	"	"	75 00	H. B. Turner.....	75 00
11. Elias Shafer.....	"	"	75 00	Elias Shafer.....	75 00
12. W. H. Burdick..	"	"	75 00	W. H. Burdick	75 00
13. R. B. DeViney..	"	HalfMonth.	37 50	R. B. DeViney.....	37 50
14. J. B. Hamilton..	"	One Month.	75 00	J. B. Hamilton	75 00
15. Merritt Lewis ..	"	"	75 00	Merritt Lewis	75 00
16. I. S. Lampman..	"	"	65 00	I. S. Lampman.....	65 00
17. E. B. Wood.....	"	16th to 31st.	31 46	E. B. Wood.....	31 46
18. A. S. Stimson...	"	1st to 5th.	12 50	A. S. Stimson.....	12 50

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF NOVEMBER, 1871.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. W. A. Barnard..	Deputy Com.	One Month.	$116 66	W. A. Barnard.	$116 66
2. M. O. Robinson	Reg. Clerk.	"	83 33	M. O. Robinson....	83 33
3. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
4. Van Dunham...	Draughtsman	"	83 33	Van Dunham.....	83 33
5. H. C. Clark.....	Clerk.	"	83 33	H. C. Clark.....	83 33
6. O. A. Bowen....	"	"	83 33	O. A. Bowen.....	83 33
7. Geo. F. Gillam..	"	"	83 33	Geo. F. Gillam..	83 33
8. C. L. Knight....	"	"	83 33	C. L. Knight.....	83 33
9. G. B. Griswold..	"	"	83 33	G. B. Griswold.....	83 33
10. H. B. Turner....	"	"	75 00	H. B. Turner.....	75 00
11. Elias Shafer.....	"	"	83 33	Elias Shafer.....	83 33
12. W. H. Burdick..	"	"	75 00	W. H. Burdick.....	75 00
13. R. B. DeViney..	"	"	75 00	R. B. DeViney.....	75 00
14. J. B. Hamiltom.	"	"	75 00	J. B. Hamilton.....	75 00
15. Merritt Lewis...	"	"	75 00	Merritt Lewis	75 00
16. I. S. Lampman..	"	"	75 00	I. S. Lampman.....	75 00
17. E. B. Wood.....	"	"	55 00	E. B. Wood.....	55 00

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF DECEMBER, 1871.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. W. A. Barnard..	Deputy Com.	One Month.	$116 66	W. A. Barnard.....	$116 66
2. M. O. Robinson.	Chief Clerk.	"	83 33	M. O. Robinson....	83 33
3. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
4. Van Dunham...	Draughtsman	"	83 33	Van Dunham.....	83 33
5. H. C. Clarke....	Clerk.	"	83 33	H. C. Clarke.....	83 33
6. O. A. Bowen....	"	"	83 33	O. A. Bowen.....	83 33
7. Geo. F. Gillam..	"	"	83 33	Geo. F. Gillam.....	83 33
8. C. L. Knight....	"	"	83 33	C. L. Knight.....	83 33
9. G. B. Griswold..	"	"	83 33	G. B. Griswold.....	83 33
10. H. B. Turner....	"	"	75 00	H. B. Turner.....	75 00
11. Elias Shafer.....	"	"	83 33	Elias Shafer.....	83 33
12. W. H. Burdick..	"	"	75 00	W. H. Burdick.....	75 00
13. R. B. DeViney..	"	"	75 00	R. B. DeViney.....	75 00
14. J. B. Hamilton.	"	"	75 00	J. B Hamilton.....	75 00
15. Merritt Lewis...	"	"	75 00	Merritt Lewis.....	75 00
16. I. S. Lampman..	"	"	65 00	I. S. Lampman.....	65 00

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PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF JANUARY, 1872.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. W. A. Barnard..	Deputy Com.	One Month.	$116 66	W. A. Barnard.....	$116 66
2. M. O. Robinson.	Reg. Clerk.	"	83 33	M. O. Robinson	83 33
3. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
4. Van Dunham ...	Draughtsman	"	83 33	Van Dunham.....	83 33
5. H. C. Clarke....	Extra.	"	83 33	H. C. Clarke.....	83 33
6. O. A. Bowen....	"	"	83 33	O. A. Bowen.....	83 33
7. Geo. F. Gillam..	"	"	83 33	Geo. F. Gillam	83 33
8. Chas. L. Knight	"	"	83 33	Chas. L. Knight	83 33
9. Geo. B. Griswold	"	"	83 33	Geo. B. Griswold...	83 33
10. Elias Shafer.....	"	"	83 33	Elias Shafer.....	83 33
11. H. B. Turner....	"	"	75 00	H. B. Turner.....	75 00
12. W. H. Burdick..	"	"	75 00	W. H. Burdick.....	75 00
13. R. B. DeViney..	"	"	83 33	R. B. DeViney.....	83 33
14. J. B. Hamilton..	"	"	75 00	J. B. Hamilton.....	75 00
15. Merritt Lewis...	"	"	75 00	Merritt Lewis.....	75 00
16. Ira S. Lampman	"	"	75 00	I. S. Lampman.....	75 00
17. E. B. Wood.....	"	22⅔ days.	56 66	E. B. Wood.....	56 00
18. H. P. Cherry....	"	One Month.	75 00	H. P. Cherry	75 00

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF FEBRUARY, 1872.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. W. A. Barnard..	Deputy Com.	One Month.	$116 66	W. A. Barnard.....	$116 66
2. M. O. Robinson	Reg. Clerk	"	83 33	M. O. Robinson....	83 33
3. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
4. Van Dunham....	Draughtsman	"	83 33	Van Dunham.....	83 33
5. H. C. Clarke....	Extra.	"	83 33	H. C. Clarke.....	83 33
6. O. A. Bowen....	"	"	83 33	O. A. Bowen.....	83 33
7. Geo. F. Gillam..	"	"	83 33	Geo. F. Gillam.....	83 33
8. G. B. Griswold..	"	"	83 33	Geo. B. Griswold...	83 33
9. R. B. De Viney.	"	"	83 33	R. B. De Viney.....	83 33
10. Chas. L. Knight	"	"	83 33	Chas. L. Knight.....	83 33
11. Elias Shafer.....	"	"	83 33	Elias Shafer.....	83 33
12. H. B. Turner....	"	"	75 00	H. B. Turner.....	75 00
13. W. H. Burdick..	"	"	75 00	W. H. Burdick.....	75 00
14. J. B. Hamilton..	"	"	75 00	J. B. Hamilton.....	75 00
15. H. P. Cherry....	"	"	75 00	H. P. Cherry.....	75 00
16. Merritt Lewis...	"	"	75 00	Merritt Lewis.....	75 00
17. E. B. Wood.....	"	"	50 00	E. B. Wood.....	50 00

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF MARCH, 1872.

NAMES.	Grade.	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. W. A. Barnard..	Deputy Com.	One Month.	$116 66	W. A. Barnard.....	$116 66
2. M. O. Robinson.	Reg. Clerk.	"	83 33	M. O. Robinson.....	83 33
3. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
4. Van Dunham....	Draughtsman	"	83 33	Van Dunham.....	83 33
5. H. C. Clarke....	Extra.	"	83 33	H. C. Clarke.....	83 33
6. O. A. Bowen....	"	"	83 33	O. A. Bowen.....	83 33
7. C. L. Knight....	"	"	83 33	C. L. Knight.....	83 33
8. G. B. Griswold..	"	"	83 33	Geo. B. Griswold....	83 33
9. R. B. DeViney..	"	"	83 33	R. B. DeViney.....	83 33
10. Geo. F. Gillam..	"	12 days.	33 25	Geo. F. Gillam.....	33 25
11. Elias Shafer....	"	1 Month.	83 33	Elias Shafer.....	83 33
12. Merritt Lewis...	"	"	75 00	Merritt Lewis.....	75 00
13. J. B. Hamilton..	"	"	75 00	J. B. Hamilton.....	75 00
14. H. P. Cherry....	"	12 days.	30 00	H. P. Cherry.....	30 00
15. H. B. Turner....	"	1 Month.	75 00	H. B. Turner.....	75 00
16. W. H. Burdick..	"	"	75 00	W. H. Burdick.....	75 00
17. E. B. Wood.....	"	16 days.	46 06	E. B. Wood.....	46 06

PAY-ROLL OF EMPLOYES IN THE STATE LAND OFFICE, FOR THE MONTH OF APRIL, 1872.

NAMES.	Grade	Time.	Amount due.	Rec'd Warrants for the am'ts opposite our respective names.	Amount paid.
1. W. A. Barnard..	Deputy Com.	One Month.	$116 66	W. A. Barnard.....	$116 66
2. M. O. Robinson.	Reg. Clerk	"	83 33	M. O. Robinson....	83 33
3. H. L. Paddack..	Book-keeper.	"	83 33	H. L. Paddack.....	83 33
4. O. A. Bowen....	Extra Clerk.	"	83 33	O. A. Bowen.....	83 33
5. H. C. Clarke....	"	4-5 Month.	66 67	H. C. Clarke.....	66 67
6. Van Dunham...	Draughtsman	½ Month.	41 66	Van Dunham.....	41 66
7. Chas. L. Knight	Extra Clerk.	One Month.	83 33	Chas. L. Knight....	83 33
8. R. B. De Viney..	"	"	83 33	R. B. De Viney.....	83 33
9. G. B. Griswold..	"	"	83 33	Geo. B. Griswold...	83 33
10. Geo. F. Gillam..	"	"	83 33	Geo. F. Gillam.....	83 33
11. H. B. Turner....	"	"	75 00	H. B. Turner.....	75 00
12. E. Shafer.....	"	"	83 33	Elias Shafer.....	83 33
13. M. Lewis.....	"	"	75 00	Merritt Lewis.....	75 00
14. J. B. Hamilton..	"	"	75 00	J. B. Hamilton.....	75 00
15. W. H. Burdick..	"	"	75 00	W. H. Burdick.....	75 00
16. H. P. Cherry....	"	"	75 00	H. P. Cherry.....	75 00
17. E. B. Wood.....	"	"	.....	.....	.....

[EXHIBIT XX.]

This agreement, made the — day of —— A. D. 18— between ——— local commissioner, upon the ——— swamp land State road, acting as such commissioner in behalf of the State of Michigan, pursuant to the statutes of said State authorizing and providing for the construction of said road party of the first part, and ——————— as principal, and ——————— ——————— as suret— of the second part:

Witnesseth, that whereas, The said commissioner has given due notice (as required by the act entitled "An act to provide for the drainage and reclamation of swamp lands by means of State roads and ditches," approved February 12th, 1859, being act No. 117, of 1859, and the acts amendatory thereof) of

the time and place of the letting of the contract for the work hereinafter specified; and at the time and place specified in such notice, the contract for such work was let by said commissioner to said principal, he being the lowest responsible bidder therefor;

Now, therefore, The said parties covenant and agree as follows, to wit:

The parties of the second part, in consideration of the compensation to be made by the State of Michigan to the said principal as hereinafter provided, covenant and agree that the said principal, shall make, construct, and finish, in a good, substantial, and workmanlike manner, on or before the —— day of ——— A. D. 18— a road, four rods wide, between the following points, to wit:——————————————————————— ——————— being a part of the ——————— swamp land State road, according to the said commissioner's survey thereof, and being sections numbered ——————— as shown by such survey. The entire length of said road, so constructed, being —— miles, more or less.

The following is a description of the land covered by the road to be constructed by said principal, viz: From ——— to ——————— the land is ——————. From ——————— to ——————— the land is ——————————————————————————————.

The distance said road is to be constructed over dry ground, as nearly as can be ascertained, is —— miles; over wet ground, —— miles; and on swamp lands and marshes, —— miles.

The said work is to be done and completed by the said principal in accordance with the following specifications, to wit:

All the timber and brush within the limits (4 rods) of the road shall be well cut down; except that, whenever any continuous half mile or more of said road shall be on sandy or gravelly soil, so open or porous that water never stands thereon, only the centre two rods need be cut out.

Said road shall be thoroughly cleared and grubbed, for a width of fifteen feet on each side of the centre of the same;

and a road-bed twenty feet in width (ten feet on each side of the centre line of the road) shall be made of solid earth, high enough to be at least one foot above the level of the water at its highest stage; and shall be rounded in the centre, with a gradual slope, for carrying the water to the ditches on either side. On each side of said road-bed, ditches shall be dug, at least five feet in width at the top, and of an average depth of at least twenty inches below the natural level of the ground, sufficient, in all places, to carry off the water freely from side roads: *Provided,* That whenever said road shall cross gravelly or sandy land, as described in preceding paragraph, the said road-bed shall be cleared and grubbed for the width of ten feet on each side of the centre line, as above specified, and shall be leveled to a smooth surface for the same width, without ditches: *And provided further,* That wherever said road shall cross swampy or marshy ground, with muck soil, after clearing and grubbing the ground as aforesaid, the said ditches shall be opened as aforesaid, and the earth removed therefrom, shall be thrown into the road-bed, and then leveled off; and upon the same shall be laid (crosswise of the road-bed) rails of sound, durable timber, not less than four by six inches, and sixteen feet in length; or poles of sound and durable timber, not less than eight nor more than ten inches in diameter, and sixteen feet in length; to be laid in the centre of the road-bed, and so compactly as to cover the ground, and form a good, substantial, and solid bed, which shall then be covered with sand, gravel, or other solid earth, free from muck, to the depth of at least twelve inches; the grading to be in all cases of sufficient height to form a dry road-bed. No timber shall be left within two feet of the outside of the ditches on either side of said road-bed.

There shall be all necessary culverts or sluices constructed, of sizes sufficient, in width and depth, to carry off the surface water freely, not less than eighteen feet in length, with sides of sound and durable flatted timber, and covered with sound pine or oak plank, or flatted timber, not less than three inches in

thickness, placed on strong and substantial bearings, to sustain the same. They shall be placed at such points as may be necessary to carry off the water freely from said road, and as said commissioner shall direct. The specific dimensions of said sluices shall be as follows:

———————— Ample lateral ditches shall be constructed wherever the same shall be necessary to carry the water away from said road, and at such points, and of such dimensions, as said commissioner shall direct.

In the construction of the road, the grubbing shall be kept n advance of the ditches and grading, at least eighty rods.

The grade of the road-bed, in ascending or descending, shall not exceed one foot in fifteen feet.

The work of constructing said road shall be commenced by said principal at such point, and prosecuted on such sections of two consecutive miles each, as the Board of Swamp Land State Road Commissioners of said State shall direct.

There shall be ——— bridge constructed, of the size and dimensions, and according to the plans and specifications hereto annexed, over ————————————————————

————————————————————.

All the materials necessary for the construction of said road, and the sluices and bridges, are to be good, and suitable for the purpose, and furnished by said principal.

All of the work aforesaid is to be well done, to the satisfaction and acceptance of the said local commissioner, and of the Board of Swamp Land State Road Commissioners of this State, and to be approved by the State Board of Control.

And the said party of the first part covenants and agrees that, upon the full completion of the work aforesaid, at the time and in the manner above specified, and the acceptance thereof, he will officially certify such acceptance to the Board of Swamp Land State Road Commissioners. And that, upon the certificate of said Board of Swamp Land State Road Commissioners, that said work has been done in accordance with the terms hereof, and the approval of such certificate by a

majority of the State Board of Control, the said principal shall receive, as a compensation in full for said work and materials furnished, the sum of $————, payable in State swamp lands, which shall be selected by the said principal, his heirs or assigns, from any unsold swamp lands which may be in market in the Lower Peninsula of the State of Michigan, and applicable to the construction of said road, at the minimum price established by law at the time of such selection, and according to the provisions of the statute in such case made and provided, and the rules and regulations of the Commissioner of the State Land Office; and patents shall be issued by the State for said lands, according to the laws thereto applicable.

And the said parties of the second part agree to be bound by all the provisions of the act first above mentioned, and the acts amendatory thereof, and the act providing for the appointment of the Board of Swamp Land State Road Commissioners, as well as by all the conditions of this contract.

The following, from section three of said first named act, is also hereby made a part of this contract:

"The Governor, Secretary of State, Auditor General, State Treasurer, Attorney General, and Commissioner of the State Land Office shall constitute a Board of Control, and shall have power and it shall be their duty, whenever, in their judgment, the public interest shall require it, to suspend the surveys and operations on any of said roads, or that of any roads to be hereafter constructed under the provisions of this act, and to direct re-surveys, with the view to the selection of more fit and convenient localities for the road; and to direct, from time to time, what work shall be commenced, suspended, or discontinued; and to extend the time for completing the work on any contract; and to correct all errors in contracts, whether of description or otherwise, and to allow interest on the unpaid amount of any existing contract for the payment of money, from and after the completion and acceptance of the work

stipulated to be done in said contract; and this provision shall be embodied in every contract under this act."

And the following, Sec. 14 of Act 177, Session Laws of 1871, is also made a part of this contract, viz: "Every contract made by said Board of Commissioners shall contain a provision, that no deficiency of swamp lands shall be so construed as to create any lien, or establish any claim against the State, except as to the lands above appropriated."

It is also understood that this contract is subject to the approval of the said Board of Swamp Land State Road Commissioners, and shall only take effect upon such approval.

And it is further agreed and stipulated that if the said——————shall, from any cause, fail or neglect to complete and finish said road at the time and in the manner provided in this contract, that the said State Board of Control shall have the right to declare this contract forfeited, and to direct the aforesaid Commissioner to re-let the construction of said road to some other responsible party; and it is also understood, between the parties hereto, that time shall be considered and treated as of the essence of this contract. And in case of the failure to complete said road as aforesaid, by the said ——————, he, the said——————, hereby authorize the said Board of Control to cancel this contract, and also hereby relinquishes any right to compensation for work and labor and materials expended under the same.

The stipulations and covenants herein contained shall apply to and bind the assignees of the said party of the second part.

In witness whereof, the said parties have hereto set their hands, the day and year first above written.

—— —— [L. S.]
Local Commissioner.
—— —— [L. S.]
—— —— [L. S.]
—— —— [L. S.]
—— —— [L. S.]

[A.]

ACCEPTANCE BY LOCAL COMMISSIONER.

STATE OF MICHIGAN, } ss.
——— *County,* }

———, being duly sworn, deposes and says that he is the Local Commissioner on ——— Swamp Land State Road; and that he has personally examined the Job let to ———, as per contract No. ——, on the said Road from ——— to ———, being —— miles of said Road, and that he has found ——— of said Job fully completed in a good, workmanlike manner; that the materials used, and all parts of the work, are in accordance with the specifications of said contract; and that he has accepted the same, subject to the approval of the Board of Swamp Land State Road Commissioners and the Board of Control.

———, *Local Commissioner.*

Sworn to and subscribed before me, this —— day of —— 187—.

———

———

[The filing on the back is as follows:]

——— Road. ——— Contractor. Accepted ——— 187—. Approved ——— 187—.

——— ———, *Board of Commissioners.*

Approved by Board of Control, ——— 187—.

———, *Chairman.*

[B.]

[Under Act 177, of 1871.]

SWAMP LAND STATE ROAD COMMISSIONER'S OFFICE, }
Lansing, Mich., ———, *187—.* }

To the Auditor General of the State of Michigan:

We hereby certify that ——— Contractor— on the ——— Swamp Land State Road, ha— fully completed —— miles of said Road, from ——— to ——— according to the specifications of —— Contract, numbered ——, and that the work has been duly accepted and approved, entitling —— to your Warrant for $——, to be paid in State

Swamp Lands in the Lower Peninsula, according to the terms of said Contract and the laws applicable to said Road.

Given under our Hands and Seal, at Lansing, on the day and year above written.

————,

————,

Board of Commissioners.

$——. Received of the Auditor General a Warrant upon the Treasurer of the State of Michigan, for the sum of ———— Dollars and —— Cents, in full of the above.

————

Lansing, ————, 187—.

[The filing on the back is as follows:]

No. 1169. ————, Contractor. ———— State Road Act 117, of 1859, and Amendments. Also, Section 6, Act 76, of 1867. $——. Approved by Board of Control, ——, 187—.

————, *Chairman.*

[C.]

SWAMP LAND WARRANT.

[Land Warrant—Third Series.]

No. 1169. AUDITOR GENERAL'S OFFICE, *Lansing, ———, 18—.*

Treasurer of the State of Michigan:

Pay to ———— or Bearer, ———— Dollars, in Swamp Land, in the ————, per Act No. 117, 1859, and amendments, and Section 6, Act 76, 1867, on the ——— State Road.

————,

$——. *Auditor General of the State of Michigan.*

[D.]

SWAMP LAND WARRANT, THIRD SERIES.

No. 1169. To ————. Act 117, 1859, and Amendments, and Section 6, Act 76, 1867. ———— State Road. Lansing, ———, 18—. $——.

[E.]

No. 1169. STATE TREASURER'S OFFICE, $——.

Lansing, Mich., ————, *18—*.

Received of ———— the sum of ———— Dollars, for Swamp Land in the ———— on contract No. ———— ——— State Road.

————,

Treasurer of the State of Michigan.

[Countersigned:]

————,

Auditor General of the State of Michigan.

DATE.	CERTIF.	NAME.	ACRES.	DOLLARS.

CROSS-EXAMINATION OF WM. HUMPHREY.

Cross-examined by Mr. Manager Grosvenor:

Question. This paper marked Schedule B seems to be a form of certificate issued by the Board of Commissioners,—do they not make a report to the Auditor General, or the Commissioner, or the State Treasurer, of what contracts they have accepted and certified?

Answer. No, sir; I think not. I have no knowledge of any such paper. They make no report of that kind to the Auditor General, except as a member of the Board of Control.

Q. He then has official knowledge?

A. He has knowledge as a member of the Board.

Q. And this certificate has to pass before that Board?

A. Yes, sir.

Q. Then the Commissioner of the Land Office has official knowledge, in the capacity of one of that Board of Control, of the acceptance and delivery of the certificate in each given case?

A. Yes, sir.

Q. Where are the contracts for work,—the files?

A. The contracts are kept in the office of the Swamp Land State Road Commissioner, I think.

Q. They also have to come before the Board of Control?

A. Not necessarily.

Q. They come before the Swamp Land Commissioner?

A. Yes, sir. The contracts are made by the local commissioner, subject to the approval of the Swamp Land State Road Commissioner, and do not necesarily come before the Board of Control,—they may be as a matter of reference.

Q. Now, do you not understand that in the event of a party, entitled to one of these certificates, taking it, and leaving no report with you in order to get his order of the Treasurer, does he not thereby forfeit his right to enter the reserved land that he may have?

A. I could not answer as to that point.

The Presiding Officer—A Senator sends up the following question, which the Secretary will read.

The Secretary read as follows:

"Do you know of a contract known as the Bathay contract, and if so, what is its date?"

Answer. My recollection is that it was a contract, dated, perhaps, in 1867 or 1868. I am not clear as to the date. I know of the contract.

By Mr. Manager Huston:

Question. When these warrants are given,—I do not remember whether you stated or not,—isn't there a credit passed to the party to whom the warrant is issued, in the Commissioner's Office?

Answer. The receipt is the credit. The receipt passes into his office, and that is evidence to him that the amount stated on the face of the receipt is due the party in whose favor the receipt is drawn.

Q. And there is a book in the Commissioner's office where they keep those credits?

A. There is. This paper in *here* is a leaf from one of those books.

Q. Well, then, the party is allowed to sell that credit after it is upon the book, just as he has a mind to?

A. I suppose so; and that is credit—matured scrip.

Q. That is transferred simply by orders from the parties?

A. By orders.

TESTIMONY OF EDMUND HALL.

Edmund Hall, a witness produced, sworn, and examined on the part and behalf of the respondent, testified as follows:

Examined by Mr. McGowan:

Question. Mr. Hall, where do you reside?

Answer. In Detroit.

Q. How long have you lived there.

A. Fifteen years, more or less.

Q. You have had some dealings with the Land Commissioner's office?

A. Yes, sir.

Q. You are acquainted with Mr. Barnard, the Deputy Commissioner?

A. I am acquainted with him.

Q. How long have you been acquainted with him?

A. Perhaps four years,—three or four years.

Q. State whether you had any arrangement with Mr. Barnard to furnish you lists of land for your contracts, and if so what the arrangement was?

A. I had no arrangement in form. I had no arrangement, strictly, with Mr. Barnard.

Q. Had you any talk with Mr. Barnard, or anybody else in the office, with regard to lists of land?

A. Yes, sir.

Q. Will you state what it was? You may commence at any place that will be necessary to explain and give a full understanding.

A. It was a brief statement; it was a request for any information that I could get from the office, or from any person that was in it.

Q. When and where was it made, and who was present?

A. Well, I don't know that I can give the date of it, with any accuracy, and I don't know that I can give the transaction with certainty. It was a sort of a growing arrangement. My first business with the Land Office, I think, was in 1868, or 1867. I became acquainted with the clerks about that time. My first business in getting lands, the reserved lands, in the office, was after I took my first contract to build State roads. I think it was in 1868 when I took my first contract, and when I had my first business in the office. The lands that were taken under our contract, we picked up by hunting lands that were reported, from the Office, to be untaken, vacant swamp lands. In process of time it became to be understood by those that were looking for swamp lands that the most available lands were "hung up"—covered up, more properly speaking,—withdrawn in one form or another from market. It became a point, then, to find what those lands were; and in the effort to find out those lands, I came in contact with the clerks in the office for the first time. Now, just when that was, I cannot give the date, but it was under the old administration of Gen. Pritchard. I knew nothing about the office until during the time that Gen. Pritchard was the Commissioner.

Q. Now, whatever the time was, then, under that statement of the the facts which preceded this talk, will you state what the talk was,—what you said?

A. Well, will you limit the question to any particular time or particular transaction?

Q. Any time or times that you remember.

A. The first important event in dealing with the Land Office was on a certain occasion where Thomas Palmer, and Charles Merrill, and myself came in contact in a struggle for some "hung-up" reserves.

By Mr. Manager Grosvenor:

Question. When was that?

Answer. That was, I think, in 1869,—it was as early as 1869 or '70.

Q. If there was any talk there with regard to assisting—furnishing you with information in getting lands, that you might reserve them upon your contract, that is what I want to get at?

A. Yes, sir; that is what I mean. I mean that there was a large amount of lands held reserved from market,—held by the parties that I have named, by Merrill and Palmer. I applied to one of the clerks in the office for a copy of the list, and it was refused. The application was urged pretty strongly to the Deputy, who was then Mr. E. H. Porter, and he refused it. I appealed to the Commissioner, and insisted upon having all the information upon that subject that the office possessed; and I demanded a list of all the lands that were held. It wa s referred to the Commissioner; the Commissioner decided that it was public paper and I had a right to it. There was quite a warm discussion over it, and almost a quarrel in the office; the clerk refused, and the Deputy refused, and the Commissioner finally ruled that we should have it. I took an application and that was the first information, I think, we ever got from the Office. I took that list and applied on it some four thousand acres, and others did the same thing,—took the same position; and I again, finally, did the same thing, until it came to be a sort of a system to watch the files and get every information we could as to lands that were abandoned or that had once been held and were not now subject to entry. In that way I came in contact with Mr. Barnard and the other clerks. I don't think at that time I got any information voluntarily from the clerks; I forced out what I got. But at a later date, I took my second lot of contracts myself, and certain persons whose contracts I had guarantied, or for whom I became security—it came to be an object to get land applied on those contracts; and on a certain occasion in the office (Mr. Porter I am sure was present, and I am sure Mr. Barnard was pres-

ent, but of other clerks I am not sure), I said that I had very heavy contracts, and I did not know what to do to fill it,—scrip was depreciating, and I made the remark, casually, that I would pay handsome for any minutes of swamp lands out of which I could make par or more than par. Responses were made in a casual way.

By Mr. Manager Huston:

Question. What was the date that you made that remark?

Answer. Well, from entries on my land-book, the large list that I took shortly afterwards, I should think it was in 1870, in the fall of 1870. I could determine by reference to the contracts, but I don't know just when they were approved; but it was in that connection. It was at a time when I had contracted to the amount of some twenty thousand acres, and no scrip was put upon it, and prices of scrip were low. But during the conversation the remark was made by some of the clerks, and I should think by Mr. Barnard—indeed I think Elder Potter was present, because I remember remarks that he made at that time—but I think Mr. Barnard remarked that there would be no trouble in overloading my contract; that there were any amount of lands that were good lands, that were worth taking, and they could overload the contract if I wanted it. That is about the substance of the conversation. I made no arrangement whatever at that time. But my recollection is, and the entries that I have on my land-book—the applications—show, that immediately after that I did get heavy lists of land through the agent there. Some, I think, were not held at all on contracts, and my impression is that some one held them on a contract or contracts that were overdrawn; but I got heavy lists along about that time, and I had reason to think that they came principally from Mr. Barnard. Mr. Barnard may have given me some lists, some information personally to me, but as a general thing I did not get it in that way at all, but I got it through Elder Potter, who was acting for me there, and was authorized

to mark anything, in his judgment, he thought I could make the price of scrip out of, and put it on my contract, signing my name to it. That is the substance of the transactions. There are other details that Mr. Barnard—

Q. Will you explain, Mr. Hall, what scrip deal there has been between you and Mr. Barnard, if any?

A. Mr. Barnard has had scrip from me, as I learned, to the amount of five hundred dollars. I am not aware of any other. I think that is the amount, all told, of the scrip that he has had.

Q. State whether you have ever made an arrangement with Gillam and Robinson, or either of them, to furnish lists to you or your agent, for reserving lands,—if so, what was it?

A. Well, I never made any arrangement that I should call an arrangement; but in looking up my scrip account,—in looking up my scrip and reservation account, and talking over the subject of abandoned lands, or lands that were subject to be entered, I was aware that Mr. Gillam knew a good deal about it,—knew of a great deal of land,—and I solicited him to hand over to me, or let me or Elder Potter know of any lands that he had reason to think were worth taking, and let me take them on my contract. I learned that Mr. Gillam did hand over to Elder Potter some lists. Elder Potter has told me what the amount was, but I could call it two or three hundred acres.

Q. About Mr. Robinson?

A. I made the same request to Mr. Robinson, but I am not aware that I ever got any of Mr. Robinson. I made the request, but not in connection with Mr. Gillam, at all. As I have stated, these conversations were happening at different times, casually. I requested Mr. Robinson that he would let me have any that he knew were subject to be taken; and, anticipating that he might, I told Elder Potter to copy and sign any lists that I might get, embodying any descriptions that he might give me of that character.

Q. State whether you ever gave Elder Potter any instructions to allow Mr. Gillam or Mr. Robinson to have any of the lands that were reserved on your contracts?

A. My recollection is that I never specifically ordered Elder Potter to let either of these persons have, and I don't know but I did, to let Mr. Barnard have. My impression is that I did not specifically, but I gave him such instructions that he was authorized to let him have, or other persons, in certain contingencies.

Q. You once applied for some lands that had formerly been applied for by Obed Smith?

A. Yes, sir.

Q. State how you came to release those lands.

A. Well, a good deal passed between the old gentleman and myself,—some of it in sport and some of it in earnest,—but a part of the list I gave up at once to Mr. Smith, directly between himself and me. The lands were applied for by Elder Potter in my name, but I sanctioned it, but I did not know about it at the time. After it was made and reported to me, I said it was all right, and just at that same time, which was the next visit that I made to Lansing after the occurrence, I met Mr. Smith here while I was here. He stated to me that he had got into a row here with the Office, and they had stolen his lands, or got them away from him, but I was one of the guilty parties; and thereupon occurred a scene, and some hard words passed,—good-naturedly on my part, and possibly on his. He threatened me with a lawsuit; he said it was all a fraud, and that they had been cheating him and stealing from him; but he said he did not know as I was personally responsible,—he did not think I was. I told him I had done it, individually, and took the whole responsibility, and nobody was to blame but myself. He told me who he had got as an attorney to take the case into court, and I told him to go in if he liked that. That went on, I guess, more than one day,—I think I stayed over night here,—but he came to me, finally, while I was

here, in a sober sort of a mood,—understand, we were friends all the time; a part of the time he would laugh about it and joke, and part of the time he got pretty serious. He is a lawyer himself, and talks as lawyers will when they get together; but, finally, he told me squarely that he was in a tight place, that he had agreed to sell some of these lands, and had got to make a patent then, or fulfill his agreement in regard to it, and it would accommodate him if I would give up part of them. I told him I was quite willing to do so, and I told him to give me a list of the lands, and I made an open order to release them. He made the remark at that time, that there was plenty left for a lawsuit, and we both assented to it; that there was plenty left for a lawsuit and we were going to have it. A part of the conversation was in the Land Office, and a part at the hotel, and a part on the walk as we were going back and forth. But a portion of the conversation was overheard by the Commissioner, at all events, before I left Lansing. In the office of the Commissioner, the Commissioner came to me and introduced the subject, spoke about it, and as near as I can recollect the substance of it was this: that if it came to a ruling, if I was entitled to the lands, he should so rule in my favor; and I think he intimated that very likely the legal right of the matter was in me; but, says he, I am satisfied that old gentleman has been trusting in good faith that he could hold these lands, that they had been held for him, and it is a hard case on him, and says he, "I wish you would give way." I told him he was at perfect liberty to strike my name off. Whether I instructed Elder Potter to that effect I do not know, but I rather think I did. I learned afterwards that Elder Potter had signed a release of the lands. I went away badgering the old man, and telling him that we would fight it out; but before I went away, I made that arrangement with the Commissioner,—said that to the Commissioner.

CROSS-EXAMINATION OF EDMUND HALL.

Cross-examined by Mr. Manager Huston:

Question. You say you were personally responsible for the reservation of Smith's land. Did you know anything about the reservation at the time it was made?

Answer. I did not. I didn't know anything about it.

Q. How long was it after it was made, before you had any knowledge of it?

A. I have heard since I came here that the application was made in November. I don't think I was in Lansing until in January. I think I was here early in January. I think that is the date that I had my interview with Mr. Smith.

Q. That is the first knowledge you had of the reservation being made?

A. That is the first I had, personally.

Q. This list was furnished by Barnard to Mr. Potter?

A. I have understood that it was.

Q. To make the reservation?

A. Yes, sir.

Q. You speak of getting some land that was once selected by Palmer & Merrill,—some four thousand acres; when did you say that was?

A. I think it was in 1869. I cannot be sure as to the date.

Q. That was procured by the system of "raiding," as it is commonly termed?

A. That is what Palmer and I agreed to call it.

Q. And that is the term that is applied to it among land dealers, isn't it?

A. Well, I don't know that it is. It is a cant expression that is used by some.

Q. Raiding upon each other's reservations. Where were these lands?

A. They were scattered pretty generally through the State.

Q. How is it that you got them through the pine district? You say you got it from Palmer?

A. Well, sir, as a matter of fact, I didn't get them. I should explain that.

Q. I don't care anything about that.

A. They were reserved—

Q. I say I don't care anything about it. You say that after you had taken a large number of contracts, you remarked casually in the office, in the presence of the clerks, that you would pay well for lists of land. You made that remark, did you not, for the purpose of directing the attention of the clerks to that fact, expecting that they would furnish you a list of lands. Wasn't that, Mr. Hall, your expectation?

A. My impression is, I made it—

Q. No. I ask you if you didn't make that remark for the purpose of directing the attention of the clerks and also—

A. No, sir. I answer No.

Q. With the expectation of procuring lists of land in that way?

A. I answer No, to that question.

Q. What is your explanation?

A. My impression is, the first remark was made casually, merely as any man would speak about a business that he is surveying in his own mind, without any definite intention; but immediately upon the remark being made that they could furnish lists, I seized upon that, as information that might lead to results,—and I cultivated my acquaintance with the office, and pried into everything I could, and followed it up as closely as I could.

Q. You said you would pay well for lists if you could make them pass on your scrip?

A. Yes, sir; or something to that effect.

Q. What did you mean by that,—where you can get ten shillings an acre for the land?

A. Well, I don't know what I did mean by that.

Q. Now, that was in December, 1870, I think you said?

A. I could not say about that. I do not know certain about that.

Q. About what time was it?

A. It was in 1870, I should judge, from the fact of my making heavy reservations immediately after that, and knowing that some of them I got in that way.

Q. I hold in my hand a letter dated Dec. 7, 1870, written by Mr. Barnard, in which he sends to Mr. Bush to look up lands, which he and Bush were to be interested in, and he states that he has an arrangement with Mr. Hall, after referring to an arrangement to hold lands. Do you know anything about that?

A. I don't know about that. I think if he alludes to an arrangement, he is mistaken about it.

Q. You think that Barnard was mistaken and that you did not have any arrangement with him?

A. No. I mean this: I think it is an allusion to transactions between myself and Barnard and Bush. If you wish, I will explain in full, giving you the circumstances connected with it.

Q. You say there was no arrangement?

A. I say I made an arrangement in connection with Mr. Bush,—with Bush,—by Mr. Barnard.

Q. I have a letter in my hands, dated January 31, 1871, in which Mr. Barnard refers to your name, and in which he says, "You will hold the lands;" do you know anything about that?

A. I do not know anything about that, specifically.

Q. Did you have an arrangement, in January, 1871, by which Bush and Barnard could hold lands upon your contract?

A. No, sir.

Q. In which Barnard and Bush were interested?

A. Not to my knowledge.

Q. Barnard says, in this letter, that he wants 4,000 acres of pine lands; and he wants the land looked in Lapeer and Tuscola. This is dated January 31, 1871. Now, let me ask you—you do not remember it—if it is not a matter of fact that there are some 1,900 acres of land that were looked, after the date of

this letter, that you are holding for him, Bush, in the county of Tuscola?

A. No, sir; I do not know it, and I do not think it is true.

Q. What amount are you holding for Bush?

A. I do not speak about the amount. I answered your general questions.

Q. What land are you holding for Bush in those counties?

A. Considerable amount, I think, less than that. I do not criticise the amount,—I criticise the fact. I answer No to the fact.

Q. Do you say you are not holding any for Bush in Tuscola county?

A. I do not say I am holding some for Bush in Tuscola county; but I say that I am not holding any with Bush, after we had it looked, in connection with any arrangement with Barnard.

Q. Mr. Bush testifies, after he got this letter, that he looked the land, and they were held,—I suppose that is a matter of record here. I have a letter, dated April 17, 1871, that is also held in the case, in which you are referred to, which reads like this,—I will read the whole of it: "I send to-day plats of the Alpena country, for all towns, I think, worth looking, with lands once reserved and applied for, and checked in blue. I wish you would look such towns carefully for scattering lots of pine. If you can get 800 or 1,000 acres, I will reserve it on contract until we can sell it and make something out of it. Don't sell to anyone in Alpena. Report direct to me. Hall says he shall probably see you again soon, in Saginaw City, and will talk with you again about lands in 18–2." Now, what do you say about Mr. Barnard having a right to reserve lands upon your contract, after or on the 17th day of April, 1871, or afterwards, that he and Bush might sell them and make something out of them.

A. Had no such arrangement.

Q. What do you say about having a talk with Barnard at

this time, in which you stated that you would see Bush and talk with him in Saginaw City?

A. I had such a talk with him.

Q. What were you going to talk with him about?

A. About paying Bush's expenses to go and look lands.

Q. I have a lettter that is in evidence that is dated March 6, 1871, in which Barnard says: "Hall was here on Saturday, and consented to hold the two forties in 18 N., 2 W., and a fraction in 19 N. 2 W., until he could see you and make some arrangement with you for that." What do you say about that?

A. What do you want me to say?

Q. Do you say whether that is true or not, that you had an arrangement by which Barnard might mark those lands up against your contract and hold them?

A. No, sir, nothing of that kind; but substantially what he says in that letter, is true.

Q. What is that?

A. As I understood you to read it,—that I would hold these until I saw Bush.

Q. Were not those lands that Bush had looked, and that Barnard and Bush were interested in, that Bush had looked before the sixth of March?

A. They might have been interested, for all I know.

Q. They were lands he had looked before the sixth of March?

A. I did not know at that time that he had ever looked them. He claimed that he had looked them.

Q. Did you not understand so from Barnard?

A. No, sir—well, I won't say. At some time I understood from Barnard that Bush claimed to have looked these lands alluded to in the letter. I had no understanding of that kind at the time those lands were held.

Q, You were to furnish him money in paying expenses, in looking lands in Alpena, or Tuscola, or Lapeer?

A. I do not know who was to furnish them. I was applied for.

Q. I understood you to say that you were to see him about furnishing money to pay expenses?

A. I agreed to see him. I made no promise.

Q. Where was it you had the talk with Barnard, about doing this?

A. That was in the Land office, here. I do not recollect ever seeing him anywhere else.

Q. Who called your attention to the fact that Bush was looking lands?

A. I think Barnard; and at some time, whether before or after this, with Bush himself.

Q. Did Barnard give you to understand at that time that he could get the lands from Bush?

A. No, I do not think he did.

Q. Did he say anything to you about Bush being in the woods looking lands?

A. I think he did.

Q. And furnishing lists to him?

A. I think so.

Q. And he had a talk with you at that time, about reserving them upon your contract, did he not?

A. Yes, sir.

Q. Now, about what time was that conversation?

A. It was at different times. I should judge it was along in the winter of 1871, and the spring.

Q. Was it as late as April 25th?

A. Very likely.

Q. As late as April 25th, 1871, you talked with him upon this same subject?

A. Yes, sir; I think so.

Q. You do not claim to have any interest in the land in Tuscola county, which Bush looked, I believe,—do you?

A. I claim that I own them. I might own them absolutely.

Q. Because they are reserved upon your contract?

A. Yes, sir.

Q. But that is not the understanding that you have had with Bush?

A. That was the understanding when I put them upon my contract.

Q. Is that the understanding between you and Bush, now?

A. No, sir.

Q. The understanding between you and Bush is, that Bush is to have the benefit of those lands,—to sell them?

A. He is to have those lands entire; that is, I understand, a certain class of lands.

Q. Is not that a contract of lands that you hold in other sections of the State?

A. True, with regard to whom?

Q. With Mr. Bush.

A. My impression is that Bush wants nothing and claims nothing at the West,—although he did look some lands there. But he does want those in Tuscola county.

Q. Those lands that you got out in Allegan,—you got some there?

A. Yes, sir.

Q. Are those lands held for Mr. Bush and Barnard, or are they your own lands?

A. They are my own lands.

Q. Did you have any knowledge until these proceedings commenced, that the land out in Allegan county had been reserved on your contract?

A. I have been trying to sell them for a year. Senator Stockbridge will tell you about that.

Q. They were lands looked by Mr. Bush, were they not?

A. I have since learned that they were. I was not aware of it at the time.

Q. They were looked by Mr. Bush and returned to Mr. Barnard. Barnard had them reserved on your contract?

A. Well, I think so, but I am not sure of it. I know Bush claims to have located it.

Q. Have you no interest in lands in Mecosta county, in the same way, that were looked by Bush?

A. I am not aware of any.

Q. Have you not got some in the Alpena country, that was looked by Bush?

A. I don't know. I will not say positively that there is not.

Q. You say the lands that Bush claims are in Allegan, Tuscola, and Lapeer?

A. All the lands that Bush claims, and the information I got from Bush, are the lands in Tuscola county,—it is in that region around Tuscola county.

Q. What do you know about a piece of land that was sold to John B. Dwinell,—I think your attention has been called to that?

A. Well, I thought I owned the lot, but I didn't.

Q. Why didn't you own it; it was reserved on your scrip?

A. No, sir; I don't think it was. I suppose it should have been, but it slipped through some way,—I did not get it.

Q. They were pieces that Van Dunham sold to Dwinell?

A. I do not know. Mr. Bush agreed to sell it to me, and I supposed it was reserved on my contract.

Mr. Manager Huston—We will waive further cross-examination for the present.

The Presiding Officer—The Senator from the Second sends up the following question, which the Secretary will read.

The Secretary read the question, as follows:

"Did you ever get lands reserved to you, in the Land Office, that were reserved in the name of other parties on the books of the office, as a favor to you?

Witness—I do not know how to answer that. Not any that I understood as a special favor.

By a Senator—I call for the reading of the question again.

The Presiding Officer—The Secretary will read the question.

The Secretary read the question as before.

Witness—In answering what I suppose to be the intent of

the question, I should say, squarely, No. I never got anything that any other citizen could not get, that I know of. I certainly never supposed I could,—nor tried. That whole transaction with Mr. Bush I would be entirely willing to explain in detail.

Mr. Manager Huston—I do not know as I care about that. We are through.

RE-EXAMINATION OF EDMUND HALL.

Re-examined by Mr. McGowan:

Question. You may explain that very matter?

Answer. At the time when the lands alluded to were reserved to me, I had no understanding, nor suspicion, that anybody else was interested in it; that was according to my best understanding at the time it was reserved. I afterwards learned, and I think for the first time, from Bush, that there was a large amount of land reserved on my contract, that he looked. I afterwards learned from other sources, that there was a large amount of land that I held on my contract that he had looked up,—as they say, "got the minutes of,"—and Mr. Bush claimed that he had a right to a share in those lands, and he came to me with that intent, and claimed it as a right. I repudiated it. I told him I had made no arrangements to that effect. Whatever land I had, I held clear, as I supposed I had got that, as I got other minutes, and was holding them as mine. There was a good deal of discussion one way and the other. I consulted Mr. Barnard and Mr. Porter about it, and the final result was, I told Mr. Bush to mark out to me whatever land I held in the State, that he had located, and, in equity, claimed that he ought to have, and he marked out his share, and I told him he might have it, exclusively; not only a share, but the whole. He expressed considerable gratitude, and he then marked out the land in Tuscola county, or surrounding, somewhere, from 1,000 to 2,000 acres, more or less, that he would like held, and wanted me to hold them until he could make other arrangements, or get them patented, and I did so.

Q. Do you remember that it was about 1,960 acres. Does that number refresh your memory?

A. I almost think it was. I am not positive. In the same conversation, he said to me he had looked other lands, and, I presume, taken out what lands he had looked. I could not give them. I know some of them were over in Senator Stockbridge's neighborhood, and there might be land in Mecosta county; but I think he told me—I am quite positive—that he did not want anything only those up in the Sanilac and Tuscola region.

Q. These are the lands that you mean when you say you were to hold the lands on your contract for Bush?

A. Yes, sir.

Q. State whether you are holding land on that contract for Barnard.

A. No, sir, I am not. I will say that I am not sure that I was holding for Bush. There was a great deal of conversation between Mr. Barnard, myself, and Mr. Bush, about his going into the woods to look land. I obtained information from Barnard that Bush was looking and contemplated going into the woods again, under some arrangement. Well, Mr. Barnard recommended him to me as a good land-looker, and said that he was a good man to look land, and recommended him pretty strongly, and a correspondence was had between Bush and myself, and an interview.

Q. Do you know when that was?

A. I cannot give the date; but it was after I was aware that I had this land that he claimed in regard to it. I should think very likely in the spring. There was a lot of land, 9 north, 1 west,—I do not remember the county,—that I talked with Barnard about sending to have examined, that I had reserved for myself. Barnard also called my attention to that. I am sure some of them were received, but not the whole. They were called the Peacock land.

Q. What is the name?

A. The Peacock land, held under the Peacock contract. There was quite a large tract. I don't know but I may have promised to send Bush to look at this land. I afterwards got another man to look them, and then we talked about sending Mr. Bush up to look it up, near where he was going to look for other parties, and I think I gave him my list of lands that I was then holding. I think, very likely, they may have looked other lands. While this was going on, right in connection with it, is the conversation alluded to, about my speaking of paying his expenses; either Mr. Bush wrote to me about expenses, or it came to my knowledge in some way, and without committing myself, agreeing to pay expenses, I postponed it, intending to see Mr. Bush, and see what arrangement I could make. Whether I wrote to Mr. Barnard to that effect, or told him that—I think I told him that; because I am confident that I had no correspondence with him, except in two instances, and that was not the subject then. That is the explanation in regard to their looking lands. Now, another matter: The three forties that I agreed to hold for him. As I recollect, I applied for three forties on the Cedar. I sent my own land-lookers to look at them. Mr. Bush did not look at them; at least I was not aware of it, at that time. But they were applied for by me, and I had not the slightest idea that anybody else had any claim, I think, until Mr. Bush turned up and claimed those as his lands. Mr. Barnard spoke to me, and said Mr. Bush claimed it; and I learned, at the same time, that he had agreed to sell,—he wanted to give up those lands. My idea was, to hold them then as they were, unless I could change them and get something else that would satisfy me, as the holder, to let him have them. And that is the explanation of my agreeing to hold those lands till I saw Mr. Bush. That is all.

The Presiding Officer—The Senator from the Seventeenth (Mr. Stockbridge) sends up the following question. The Secretary will read the question.

The Secretary read as follows:

"Question. You say lands were held upon your contract for Mr. Bush before you knew that such was the fact. Now, by what authority was that done?"

Answer. Those applications were signed by Elder Potter, as I understand, and under the directions that I had given him before. And I, perhaps, should answer further, that I became aware, and have no doubt about the fact now, that these descriptions were got through Mr. Barnard,—those lands in Tuscola county and Sanilac. But I state that from general knowledge of the relations between Mr Bush and Mr. Barnard, as Mr. Bush afterwards explained that to me.

Q. You have stated that you were not holding any lands, and have not held any, for Mr. Barnard?

A. Not an acre.

Q. Will you state whether you hold now or ever have held any lands for Barnard and Bush,—if any, what?

A. Not an acre in that way. I had no idea that Mr. Barnard was interested in Bush's transaction, as I now recollect. I should make another explanation there with regard to lands held for Mr. Barnard. It is this. It is an explanation of the transaction, however it may be, or whether it is Mr. Barnard or Bush, or whatever it may be. When I got these descriptions, made these applications through Elder Potter, I had no idea but I was holding these free from all embarrassment. I never expected to be called to an account for it to anybody as holding other people's land, unless it might be some man who possibly had a disputed contract, or with some original holders. I never anticipated any such question as this; but after these lists were put upon my contract—some of them, at all events—I became aware, through Elder Potter, that there were some descriptions that other people claimed, or that they thought they ought to have; and Mr. Barnard made representations to me that there were some lots that were on my contract, and I ought to hold them for the

benefit of the original holders or somebody else. At any rate, I became aware of a claim of that kind. I had taken those lands with the expectation of making the price of scrip, or more, out of them, as I could, and, not being aware of any such claims as these, I told Mr. Potter that with regard to the lands that I did not make a special claim of—lands that I had looked up and had at a definite price—that I was quite willing to have those lands taken off, if I could be indemnified,—alluding to such explanations as these that he had given, or such suggestions; and I am aware that afterwards some lots were patented up by other parties. The application was signed by Elder Potter, as a substitute, under those representations. I look at some of the testimony. and I should judge that those transactions—I cannot give the names now—

Q. You refer to Hudson and Munroe?

A. Yes, sir. If he had the application, I presume that these lands were taken in that way.

By Mr. McGowan:

Question. And that was within the scope of your authority and direction to Potter?

Answer. That was entirely so. There was another transaction that I have not seen alluded to at all. I had some three or four thousand acres, I think, that I had sent to take, not having a very good opinion of the locality, and not having very definite information about it. I consented to have them put on my contract. I was uneasy about them, and wanted them off, and I told Elder Potter, if he could get rid of the whole list of lands, and get a fair market price for scrip, to let them go for it. I cannot give you the township, but I know there have been three or four thousand acres of that kind patented up and paid in scrip. The whole detail of that, Elder Potter knows distinctly and definitely. All that I can give you is the general idea.

Q. Now, Mr. Hall, in all these transactions with the office,

state whether you had any arrangement with the Commissioner with reference to your matters?

A. Nothing at all.

Mr. McGowan—That is all, Mr. President.

The Witness—I scarcely came in contact with the Commissioner at all.

RE-CROSS-EXAMINATION OF EDMUND HALL.

Examined by Mr. Manager Huston:

Question. When were these four or five thousand acres patented up,—how long ago?

Answer. I should think sometime last summer or fall.

Q. You do not know to whom they were patented up?

A. I do not.

Q. Do you know who sold the land,—whether it was Barnard?

A. I suppose I sold it myself. I suppose orders to patent were signed in my name.

Q. Who negotiated the contract with the man,—bought the land? You mean, by saying you sold it when you were present, Potter signed the necessary papers to have them patented?

A. That is all I mean.

Q. You say Mr. Bush claimed an interest in the lands; what reason did he assign for having an interest in the lands?

A. He said he had looked those lands up with the understanding that for furnishing the minutes he was to have a share in the lands or pay for them.

Q. Looked them up with an understanding with whom?

A. I think he stated with Mr. Barnard.

Q. Let me ask you whether Mr. Bush looked up the N. E. ¼ of the S. W. ¼ of Sec. 20, T. 10 N., 4 E.?

A. I have no means of telling, here. I have no recollection about it as a description.

Q. Will you tell whether he looked the N. ½ of the S. W. ¼ of Sec. 5, T. 8 N. 1 W.?

A. I have no means of telling, here. The land-book that I

hold in my hand is not posted any later than a year ago this last spring, except lots that I put on myself, individually. I have not compared it with the entry-book, or with Potter's.

Q. This land was reserved before last spring, the evidence shows.

A. I do not think I have the town in my plat. I have no recollection about it.

Q. If you had had your own land-looker to look them up, you would have had it on your plat?

A. I think I would.

Q. That is true with regard to the first piece I read?

A. I have no minutes that I can give you any information from.

Q. Let me ask you if you have got the minutes of the S. ½ of the N. E. ¼, and the N. W. ¼ of the N. E. ¼ of section 13, town 12 N., range 10 W.

A. I have no report of that.

Q. Will you look on your book and see if you have the S. W. ¼ of the S. W. ¼, section 17, 2 S., 16 W.?

A. I have nothing south of the meridian.

Q. Will you look to see if you have the N. W. ¼ of the N. W. ¼, and the S. W. ¼ of the S. W. ¼, town 10 N., 4 E.

A. That is the same town you called once before. I may have answered you incorrectly. I was looking for 10 N., 4 W. I have the description you gave me in Sec 20, in my land-book. I have no report of that. It is in the general direction where Bush looked lands, and I presume that he looked that. I have no personal knowledge of it and have not got it minuted on my book.

Q. I want to call your attention to the S. W. ¼ of the S E. ¼ of section 13, town 4 north, range 13 west?

A. I have that on my book. I have not any reports here of it; but it is merely marked down on the plat-book.

Q. That is the same land which Bush looked?

A. I am not aware that it is; it may be and it may not be. I have it on my books.

Q. The N. W. ¼ of Sec. 19, town 2 north, 15 west,—have you got that?

A. I have got two descriptions in that town,—19 and 20.

Q. What is the description on 19 and 20?

A. W. ½ of the N. W.

Q. Did you make any application for that?

A. Yes, sir.

Q. Is not that the same that Bush looked also?

A. It may be.

Q. And the application was made by Potter, if made at all?

A. I think so.

The Senator from the Twenty-fifth [Mr. Waterbury] sent to the Chair the following question, which the Secretary read:

"Question. You say that you suppose the land which was reserved on your contract by Barnard or Bush was yours to all intents. What would you pay Barnard or Bush, as you suppose?"

Answer. Nothing.

The Senator from the Twenty-seventh (Mr. Stockbridge) sent to the Chair the following question, which was read by the Secretary:

"Question. Do you know anything about the Bathay contract—the date of it and if the road was well built?"

Answer. That is a professional question. None of the swamp angels, known as State-road contractors, admits that anyone builds a good road except himself.

Q. Did you have any interest in the Obed Smith or Bathay contract?

A. Not that I am aware of.

The Presiding Officer—I wish to say to the Senators that I have been requested to sign orders in favor of the clerks in the Land Office, who have been here as witnesses. I have hitherto refused to do so, thinking they were in the employ of the State while they were here as witnesses, not knowing that they lost their time. If some one will make a motion, the Chair will entertain it.

Senator Romeyn—I will make the motion that the usual allowance that is made to other witnesses in the case—

Senator Ball—I would like to inquire if they have lost their time?

The Presiding Officer—I have understood not. I have not been informed definitely with regard to that.

By Mr. Manager Huston—They have not been in attendence but very little on our call. We called the witnesses here only when they were needed.

Senator Waterbury—I would like to know if I can draw pay as a witness?

The Presiding Officer—That question is hardly before the Senate at the present time. The Senator from the First (Mr. Romeyn) means that the usual *per diem* be allowed to the clerks from the Land Office, who have been here as witnesses, that have been allowed to other witnesses.

Senator Romeyn—I mean to all the clerks employed by the State, provided they were summoned by the Managers.

Senator Alexander—I move that the motion lie upon the table.

The Presiding Officer—Voting it down will have the same effect. The Chair would like to know what to do. I simply raise the question for my instruction. I would like to know what the order of the Senate is to be. Does the gentleman withdraw the motion, to lay on the table?

Senator Alexander—No, I do not.

The Presiding Officer—I wish you would do something with regard to it.

Senator Alexander—If you will state the question I would like to make some remarks.

The Presiding Officer—Discussion is not in order. The Chair takes it for granted that they are in the employ of the State while here as witnesses.

Mr. McGowan—Possibly we can make a statement which will throw some light upon the subject. I have just been

informed by the Commissioner of the Land Office, that this matter was brought to his notice by the clerks, and he told them if they received pay while acting as witnesses that he would be compelled to cut their pay down on the pay-rolls. It is as long as it is short.

Senator Alexander—I will withdraw the motion to lay upon the table.

The Presiding Officer—The question is upon the motion of the Senator from the First, Mr. Romeyn.

Senator Ball—I move that the room may be cleared, in order that we may discuss this matter and come to some conclusion. [Cries of "Let us have a vote."]

Senator Ball—If I am in order—

The Presiding Officer—The Senator is in order.

Senator Ball—I move that the Senate room may be cleared, in order that we may discuss this matter and come to some conclusion, as it involves a large expense, and we wish to see whether it is right or wrong. I do, especially before I vote upon it.

Senator Alexander—I cannot see any—

The Presiding Officer—The Senator is out of order. Is the motion of the Senator from the Twenty-ninth (Mr. Ball) supported?

Senator Briggs—I support the motion.

The question being on the motion of the Senator from the Twenty-ninth (Mr. Ball), that the room be cleared for deliberation;

The motion did not prevail.

The Presiding Officer—The question is upon the motion of the Senator from the First (Mr. Romeyn.)

The roll was called, and the motion did not prevail, by yeas and nays, as follows:

YEAS.

Mr. Ball,	Mr. Briggs,	Mr. Romeyn,	3

NAYS.

Mr. Alexander,	Mr. Moffatt,	Mr. Stoddard,
Barber,	Neasmith,	Storrs,
Begole,	Price,	Waterbury,
Cawley,	Prutzman,	Wheeler,
Dexter,	Putnam,	Wood,
Gay,	Randall,	President
Jenks,	Sheley,	*pro tem.*,
Mann,	Stockbridge,	22

The Presiding Officer—The motion was lost.

Mr. Manager Huston—When Mr. Munroe testified in the case, there were two patents that he did not have, that he agreed to send here, and he handed them to me. Counsel have seen them, and we desire to make them exhibits in the case.

The patents are as follows:

[EXHIBIT Y.]

No. 22880.

In the Name of the People of the State of Michigan:—To all whom these Presents shall come, Greeting:

Whereas, James T. Munroe, of the county of Clinton, Mich., on the twentieth day of February, in the year one thousand eight hundred and seventy-one, purchased from the State of Michigan, the lands hereinafter described, pursuant to the laws of said State, then in force, and in such cases made and provided:

And whereas, The said James T. Munroe has paid for said lands, pursuant to the conditions of said sale, and the laws of the State duly enacted in relation thereto, the sum of one hundred and fifty dollars, and all legal interest thereon accrued, as fully appears by the certificate of the proper officer, now on file in the office of the Secretary of State of the State of Michigan, being certificate No. 9075 for swamp land;

Now, therefore, I HENRY P. BALDWIN, Governor of said State, in consideration of the premises, and by virtue of the power and authority vested in me by the laws of the said State, in such cases made and provided, do issue this Patent, in the

name and by the authority of the People of the State of Michigan, hereby granting and confirming unto the said James T. Munroe, and to his heirs and assigns forever, the following piece or parcel of land, situate in the State aforesaid, to wit: The south half of the northeast quarter, and northwest quarter of the northeast quarter of section thirteen (13), in township twelve (12) north, of range ten (10) west, containing one hundred and twenty (120) acres, according to the returns of the Surveyor General: To have and to hold the above described and granted premises unto the said James T. Munroe and to his heirs and assigns, to his and their sole and only proper use, benefit, and behoof, forever, as provided by the laws of said State, against the lawful claim or claims of all persons whatsoever.

In testimony whereof, I have caused these letters to
[L. S.] be made patent, and the Great Seal of the State to be hereunto affixed.

Given under my hand, at Lansing, this twenty-first day of February, in the year of our Lord one thousand eight hundred and seventy-one, and of the Independence of the United States of America the ninety-fifth.

By the Governor: HENRY P. BALDWIN.

SAM'L H. ROW,
Dep. Secretary of State.

Recorded Book 37, page 176.

[EXHIBIT Z.]

No. 22881.

In the Name of the People of the State of Michigan:—To all whom these presents shall come, Greeting:

Whereas, James T. Munroe, of the county of Clinton, Mich., on the twentieth day of February, in the year one thousand eight hundred and seventy-one, purchased from the State of Michigan, the lands hereinafter described, pursuant to the laws of said State, then in force, and in such cases made and provided;

And whereas, The said James T. Munroe has paid for said lands, pursuant to the conditions of said sale, and the laws of the State duly enacted in relation thereto, the sum of one hundred dollars, and all legal interest thereon accrued, as fully appears by the certificate of the proper officer, now on file in the office of the Secretary of State of the State of Michigan, being certificate No. 9074 for swamp land;

Now, therefore, I HENRY P. BALDWIN, Governor of said State, in consideration of the premises, and by virtue of the power and authority vested in me by the laws of the said State, in such cases made and provided, do issue this Patent, in the name and by the authority of the People of the State of Michigan, hereby granting and confirming unto the said James T Munroe, and to his heirs and assigns forever, the following piece or parcel of land, situate in the State aforesaid, to wit: The north half of the southwest quarter of section five (5), in township eight (8) north, of range one (1) west, containing eighty (80) acres, according to the returns of the Surveyor General; to have and to hold the above described and granted premises unto the said James T. Munroe, and to his heirs and assigns, to his and their sole and only proper use, benefit, and behoof, forever, as provided by the laws of said State, against the lawful claim or claims of all persons whatsoever.

In testimony whereof, I have caused these letters to
[L. S.] be made patent, and the Great Seal of the State to be hereunto affixed.

Given under my hand, at Lansing, this twenty-first day of February, in the year of our Lord one thousand eight hundred and seventy-one, and of the Independence of the United States of America the ninety-fifth.

By the Governor: HENRY P. BALDWIN.

SAM'L H. ROW,

Dep. Secretary of State.

Recorded Book 37, page 177.

Mr. Manager Huston—I did say I wanted to ask Mr. Gillam a few more questions, but I do not think I will do it, Mr. President. I will waive that.

Mr. Shipman—Mr. President: I wish to offer in evidence, the Legislative Journal in regard to the Impeachment Proceedings.

Mr. Manager Huston—That is a public record, and I suppose is in evidence already.

Mr. Shipman—We do it in order that there may be no question about it.

Mr. McGowan—We are very happy to state to the Senate, that with this last witness, we close our case, by stipulating, as we have agreed to with the Managers, that on the 10th day of October, 1871, that the respondent had a wife then living, to whom he was legally married as charged in the last article.

Mr. Manager Huston—It is understood also, that the paper "Every Wednesday Night," is in evidence.

Mr. Shipman—Yes, sir, that is in evidence.

The Presiding Officer—The Chair understands, then, that the evidence on the part of the respondent is now closed?

Mr. McGowan—It is now closed.

The Presiding Officer—You rest your case?

Mr. McGowan—We do, sir.

Mr. Romeyn—Mr. President, as I believe the case is closed so far as the taking of evidence is concerned, I desire information from the gentlemen who represent the People, and also the counsel for the respondent, as to whether they are prepared to go on with the case,—the argument of it,—or what their desire is in regard to it, before making any motion to adjourn. The hour of adjournment has nearly arrived.

Mr. Manager Grosvenor—We have no witnesses in the Senate Chamber, and we have but two or three more; they are to a single point; it is to the point of sustaining the witness Baker as to his general reputation; and perhaps if the Senate adjourn they

will allow us to introduce these witnesses on the coming-in of the Court, at an adjourned day. It is to his general reputation for truth and veracity that we propose to introduce three or four prominent citizens of this city; we have a list of twenty names here.

The Presiding Officer—Has that been attacked?

Mr. Manager Grosvenor—There has been conflicting testimony. The Senate will recollect that he swore that he did not play billiards on a certain night, and they have brought two witnesses to say that he did, and that he was drunk, and he denied that he was drunk.

The Presiding Officer—For the purpose of settling that question it may as well be raised here, and the offer made here before the adjournment, and the Senate can then decide whether they will hear testimony as to that.

Mr. Manager Grosvenor—Well, we make the offer.

Senator Romeyn—I do not know, Mr. President, whether I was in error, or whether the Journal is. I find on page 66 of the Journal the announcement was made by the Honorable Manager that they had closed the evidence with the exception heretofore noted, which was with reference to the testimony of a female who had been subpoeaned and had escaped.

Mr. Manager Huston—I suppose that would refer to the direct testimony. We had no reference to rebutting.

The Presiding Officer—No doubt about that. Does the Chair understand, then, that the Honorable Manager proposes to introduce testimony as to the general reputation of the witness Baker for truth and veracity. I understand that you are not prepared with your witnesses.

Mr. Manager Grosvenor—We are not prepared at this moment. We can get them in, in a very few moments. We may as well decide the question: We make that offer.

Mr. Shipman—Mr. President. We do not understand that this testimony would be admissible if the witnesses were here present. We have offered no testimony directly impeaching

Mr. Baker. We have given no testimony, nor offered any testimony, that he was a person whose general reputation for truth and veracity was bad. I do not understand the rule to be, that you can offer testimony that his general reputation is good, until it has been attacked. I may be mistaken, on that; but I do not recollect an instance of its being done. Perhaps I am wrong.

Mr. Manager Grosvenor—I understand there are two methods of impeaching the credibility of a witness: One is, by showing contradictory statements, or showing, by a preponderance of proof, that he had been false upon a given point; another is, you may attack a witness by his general reputation,—two ways. Now, when a witness is attacked in either manner, you may reply in either way. I understand it to be the invariable rule in this State, that where a witness is attacked,—where there is an attempt to impeach him, either by testimony as to his general character, or testimony affecting the principal matter to which he testified,—thus, an impeaching question put to him, "Were you not intoxicated such a night," or, "Did you not play billiards that night;" he denies that; two witnesses are brought to contradict that;—it is a question of veracity between the witnesses. Now, we have a right in rebutting testimony, to impeach these impeaching witnesses, and to sustain our own witness. I understand that to be the rule of the Circuit.

Mr. Manager Cochrane—The gentleman, I think, mistakes the proposition of law, at least as I understand it. He says: "That the general character of a witness for truth and veracity cannot be sustained until his general character is attacked." Take a case of perjury, where a man is accused of committing perjury. He is accused of making a single statement which is false. That statement is proved to be false. Certainly, testimony may be introduced as to the general character of the witness. It is almost the universal way, and one of the means of defending such cases as that.

The Presiding Officer—I will ask the Manager, if, then, that question is not the issue to be tried, and not collateral.

Mr. Manager Cochrane—I do not understand that in a case of perjury, that the question to be tried is whether the general reputation is good or bad; but the question is whether his reputation for truth and veracity is good. They have asked certain questions here, evidently for the purpose of impeaching the witness; and this Court may believe that this witness, Baker, stands perjured before them. So far as it goes, we think this is the only way to sustain the credibility of the witness. We had no means of knowing whether his testimony would be attacked, or not. To illustrate this position, we bring Baker on the stand; we know not what course the defense will pursue; we might have substantiated his testimony by a dozen men, but we did not think it necessary; and they bring on a dozen witnesses to impeach the very statements made; and we bring a dozen witnesses to reiterate that testimony; we are then thrown back to the general character of the witness. It seems to us, and we submit, that that is the rule which governs in such cases.

The Presiding Officer—The Chair does not understand that where the witness is brought upon the stand, and gives testimony tending to prove a certain state of facts, and other witnesses are brought upon the stand to show that the facts are not as stated by that witness, but something else, that it is no part of the rebutting case, then, to bring witnesses to support the first state of facts, sworn to by the first witness.

Mr. Manager Grosvenor—That is not the question, that these are impeaching questions to the witness. It is quite immaterial whether he was playing billiards or what. That is not the part of the *res gestæ*, but that is a matter calculated to impeach him, as being inconsistent with his story. They do not ask the general question, whether he was doing so and so, but they were impeaching questions; and I grant that, under the proposition stated by the President, you can introduce corrobo-

rative testimony, and give the preponderance of the proof between the witnesses. But these were impeaching questions, and there were other impeaching questions put at the same time about other matters: Did you not do so and so at such a time? tending to impeach his credibility. As I said before, it is immaterial whether he was playing billiards or drunk,—not affecting his credibility as a witness on the stand. It is a material fact, for the Senate to understand whether or not he was drunk and playing billiards that night, as a fact in itself but immaterial as bearing upon the question of credibility.

Senator Wheeler—I would like to know, before a vote is taken, whether the Managers claim anything under the articles referring to drunkenness.

Mr. Manager Cochrane—Yes, sir; I suppose we are obliged to submit that; we have no power to withdraw.

The Presiding Officer—The question is, shall the evidence proposed on the part of the Managers be received. Are you ready for the question? Senators, those of you in favor of the evidence being received, will, as your names are called, say Aye; those opposed, No. The Secretary will call the roll.

The Secretary called the roll and the motion prevailed, by yeas and nays, as follows:

YEAS.

Mr. Ball,	Mr. Jenks,	Mr. Stoddard,	
Barber,	Moffatt,	Storrs,	
Begole,	Neasmith,	Waterbury,	
Cawley,	Putnam,	Wheeler,	
Dexter,	Sheley,	Wood,	17
Gay,	Stockbridge,		

NAYS.

Mr. Alexander,	Mr. Price,	Mr. President	
Briggs,	Prutzman,	*pro tem.*,	7
Mann,	Romeyn,		

Mr. Manager Grosvenor—We will confine ourselves to the number limited in the Circuits,—not to exceed four witnesses We have not the witnesses present. I want to state that, per-

haps the absent witness will be here, and will be all the testimony we will offer. We are not informed at present. The Managers are also under the necessity of asking a little indulgence from the Senate in order to prepare for the opening of this case. Should the argument be reached to-morrow morning, I apprehend we shall not be able to open this case on the part of the People as fairly and as fully as its importance demands. We ask that we may have a reasonable time to prepare the opening arguments. We have given our time and attention to getting this testimony before the Senate, and we have had hardly time to make any arrangement for presenting the arguments. We ask that we be allowed a reasonable time to prepare and present this case, and, also, on the coming in of the Court, to present the four witnesses which we shall have by that time.

Mr. Shipman—I understand, Colonel, that the testimony of the four witnesses are upon the question of truth and veracity?

Mr. Manager Grosvenor—Four witnesses, and if the absconding witness should be reached in the meantime, we shall ask to produce her here.

Mr. Shipman—Mr. President: We cannot take the case in that shape.

Mr. Manager Grosvenor—I do not apprehend there is anything else, unless we shall find that we have omitted something which would be a matter of consideration for the Senate to allow us to introduce it or not. We are not aware now of any rebutting testimony, except what is now in.

Mr. Shipman—Mr. President: We do not like to take the case in this shape; we do not know where we are. They propose now to offer four witnesses, but it may be something beyond that; it may go on indefinitely,—how far we do not know, and I ask for information now, so that we may know what to prepare for.

Mr. Manager Grosvenor—It is not indefinite. There is the absconding witness that we sent for.

The Presiding Officer—So far as that absconding witness is concerned, of course it is provided for in the reservation that was made at the time.

On motion of Mr. Alexander, the rule requiring the Senate, sitting as a Court of Impeachment, to adjourn at four o'clock was suspended.

Mr. Manager Grosvenor—To state definitely, we have only to examine this absconding witness and the four witnesses spoken of, the balance I make no reservation about. If we discover that we have by haste omitted anything, we shall have to come before you and make a case for your consideration; we ask no reservation, however. It will be like any other case submitted to the courts for consideration, for our relief against accident and mistake, if there should be some part, in looking over the case, we find we have omitted to introduce. There are various kinds of testimony here, documentary evidence. I remember now that you [the counsel for the respondent] called for the patent of Mr. Hudson; and I remember that it has been brought in,—it has not been produced,—and you may refuse us the weight of the evidence if it is not in. Some little things of that kind, we ask no reservation for, but we shall come to the Court, and ask that reasonable consideration, whether it may come in or not, depending upon its importance, whatever it may be.

The Presiding Officer—Let me suggest that there is no motion before the Senate.

Mr. McGowan—I wish simply to inquire of the President as to a suggestion which he himself has just made. If I mistake not, he said that the absconding witness may be produced at any time during the trial,—that under the reservation that was made, after we had submitted our case, then she might be brought in as a part of the case of the prosecution.

The Presiding Officer—I so understand it.

Mr. McGowan—We certainly submit that we did not so un-

derstand it. After we had closed, we had reason to believe that it only went to our portion of the case.

The Presiding Officer—I do not recollect the exact language.

Mr. Romeyn—I ask that the Secretary read from page 66 of the Journal.

The Secretary read as follows:

"*Ordered*, That Jane Bolton may be sworn, in the case, on the part of the State, at any time before the evidence is closed, and her testimony received as if in regular order, subject to the right of cross-examination on the part of the respondent, and to produce testimony in answer thereto."

Mr. Shipman—I understand the testimony to be closed now with the exception of the privilege of calling four witnesses upon the general reputation of James H. Baker as to truth and veracity. If not, we want to go on with the case and finish it.

The Presiding Officer—I understand just this: That the testimony on the part of the respondent is now closed; that no testimony has yet been introduced of a rebutting nature. The matter under discussion now is, when that shall be brought forward. Of course, if the Honorable Managers should state that they had no rebutting testimony, the testimony would then be closed. I do not understand that it is now.

Mr. Manager Huston—Mr. President: We do not want to say now that the rebutting testimony is closed. We have had no opportunity to produce such testimony.

The Presiding Officer—It seems that this discussion will be fruitless unless some motion is before the Senate.

Mr. Shipman—May I state, Mr. President, what I understood the Honorable Managers to say? It is that they had closed, with the exception of those four witnesses; perhaps I am wrong?

Mr. Waterbury—I move that when the Senate adjourns, it be until Tuesday morning at nine o'clock.

Mr. Alexander—I would inquire of the Honorable Managers

and the counsel for the respondent, if that will give them sufficient time to prepare for the arguments?

Mr. Shipman—It will give us sufficient.

Mr. Manager Grosvenor—I would prefer to have it on Wednesday, but will submit to the voice of the Senate.

Mr. Romeyn—I will ask the Senator from the Twenty-fifth, if he will allow me to amend the motion by making it afternoon of that day, instead of nine o'clock.

The Presiding Officer—Does the Senator from the First offer that as an amendment to the motion made by the Senator from the Twenty-fifth?

Mr. Romeyn—Yes, sir. I offer an amendment simply as to the hour,—making it Tuesday at two o'clock P. M., instead of Tuesday morning at nine o'clock.

Mr. Waterbury—If the Managers and the counsel for the respondent say they are ready to go on, I do not think it is best to spend time when they are ready to go on.

The Presiding Officer—Did the Chair understand the Senator from the Twenty-fifth to accept the amendment offered by the Senator from the First?

Mr. Waterbury—I do not accept it.

Mr. Wheeler—Mr. President, I wish counsel for the respective parties would state what time they desire if any, before I vote on that question.

The Presiding Officer—The Chair understood the Honorable Managers upon the part of the House, and the counsel for the respondent to say that they would accept the time as mentioned in the motion of the Senator from the Twenty-fifth.

Mr. Shipman—Am I in order? I wish to state that we do not know whether the testimony is closed, or whether it is not; nor how much testimony we have got to take. We do not know anything about it, from the shape this case is in at present. I do not want to get ready for an argument of the case, until I have got the case. That is the way I feel about it; and I do not suppose that anybody does. It will make a difference

if further testimony is to be put in here. It will necessitate, undoubtedly, more testimony on our part. I would like to get through the testimony, and then we will talk about the argument. I know it will take several witnesses, at all events, if certain testimony which they are talking about is introduced here.

Mr. Briggs—I move that we adjourn until to-morrow morning at nine o'clock.

Mr. Wheeler—Would that be debatable if the Senate was cleared?

The Presiding Officer—No, sir; not on the simple motion to adjourn.

Mr. Waterbury—Do I understand that a motion to adjourn is in order when there is a motion pending?

The Presiding Officer—Yes, sir. Does the Senator from the Third insist upon his motion?

Mr. Briggs—I do, Mr. President.

The motion to adjourn did not prevail.

The Presiding Officer—The question is upon the motion made by the Senator from the Twenty-fifth, that when the Senate, sitting as a Court of Impeachment, does adjourn that it adjourn until Tuesday at nine o'clock.

Mr. Wheeler—Mr. President, I move that the Senate Chamber be cleared for deliberation upon that motion;

Which motion prevailed.

After some time spent in deliberation, the doors were again opened.

The Presiding Officer—I will state to the Honorable Managers and counsel for the respondent, that the motion pending at the time the Senate Chamber was cleared for deliberation, was lost. The Senate, sitting at a Court of Impeachment, stands adjourned until to-morrow morning at nine o'clock.

Lansing, Saturday, May 18, 1872.

The Senate met, and was called to order by the President *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

Absent without leave: Senators Begole, Hannahs, Morton, Sheley, and Stoddard.

Senator Romeyn—I ask leave of absence for Senator Begole during the day.

Leave was granted.

Senator Briggs—I am requested by Senator Morton to ask leave of absence for him indefinitely on account of sickness.

Leave was granted.

Senator Alexander—I wish to offer a resolution.

The Secretary read the resolution, as follows:

"*Resolved*, That when the Senate adjourns to-day, it be until Tuesday morning at 9 o'clock."

Senator Moffatt—I move that the Senate chamber be cleared for deliberation, unlesss the counsel wish to be heard on that question.

Mr. Manager Cochrane—For one, I should desire to be heard upon that motion. I hope the Senate will grant us the time that is asked in this case. I believe that it has been claimed here,—and perhaps truly claimed,—that in ordinary cases, at the close of the evidence, no adjournment is asked for time, for the purpose of preparation; but the Senate, of course, understand that this is an unusual case, the like of which is not often presented to the court; and the length and breadth of the testimony is such, that it presents, necessarily, some new points. I will say, that in this trial there will be some questions raised by the counsel for the respondent, and questions raised on our side, which have never been raised on impeachment trials,—questions involving some examination of the law.

So far as the Managers are concerned, it is very well known to the members of this Senate that they have not only been

Managers but have had to be plaintiffs here. We have had to spend our time in procuring evidence, and a great deal of time has been occupied in the procurement of this evidence, which if we had had a party to attend to for us, we could have devoted to preparation to argue the case.

There are here nearly four hundred pages of evidence. Every attorney knows, that as a matter of practice, where reliance is placed upon reporters, that attorneys themselves pay but little attention to the evidence as it is given. They listen to it as a matter of course, but they take no pains to treasure it up in their minds,—to arrange it for the purpose of using it. I presume that is the position of the counsel for the respondent, and it is certainly the position of our side,—at least, for myself it is so. I have heard all the evidence, but I have made no arrangement of it which would enable me to present it to this Court in the way it ought to be presented.

It is probable that the same thing has happened with the members of the Senate,—that they have made no arrangement of it in their minds,—that they have not looked it over.

The Senate will also recollect, from the very commencement of this case we have never asked one single moment of time, with the exception of when the answer was put in we asked an hour for the purpose of deciding upon the form of replication. With that exception, we have not asked one single moment of time.

The time that is proposed here is certainly short, and I suppose it will involve a necessary labor upon the Sabbath. Or, if it does not involve the necessity, some of us may feel, in justice to ourselves and in justice to our case, that we ought to labor upon the Sabbath. And that will give us, at the outside, about two days and a half to look over this matter. If the Sabbath is actually kept as a day of rest, it leaves us only a day and a half to look over this immense amount of testimony,—to look up considerable law,—to see whether there is any law upon the case,—to apply it upon precedent, if we can,

and if we cannot, to apply it upon principle. And therefore, I earnestly request that the Senate should give us that time.

Mr. Shipman—Mr. President, I suppose I may be permitted to state that the Managers intend to close their testimony this morning before or by ten o'clock, so that the members of the Senate can have an opportunity to go home on the early train, and we simply ask time to prepare for the argument. It is useless to say a word upon the necessity for this adjournment. If the case is to be presented at all, it should be presented well; and to make any kind of preparation for the presentment of the case, we should have at least as much time as the resolution contemplates. We fully appreciate the position the Managers are placed in, for we know how it is ourselves,—we are in the same situation. We therefore hope the time will be given us.

Senator Alexander—Mr. President, I offer this resolution—

The Presiding Officer—Debate upon the resolution is not in order under the rules.

Senator Moffatt—Mr. President, I move that the rule with regard to debate be suspended, in order that we may discuss this question without the Senate being cleared.

The Presiding Officer—The rule will be suspended, unless objection is made, without a vote being taken.

Senator Alexander—Mr. President: I say I offer this resolution in anticipation of the conclusion of the testimony before the next hour, when it will be necessary to proceed with arguments or adjourn, and inasmuch as it is Saturday it seems to me that it is very appropriate to make this the time of adjournment, if we conclude to grant the request of the Managers and of the attorneys for the respondent, in order that they may have ample time to prepare for their arguments and present the law of the case. It seems to me that it would be very just and proper that we should do so, that we may be able to go home—those of us that desire to—on the early

train. It seems to me to be highly proper that this question be now decided.

Mr. Manager Grosvenor—Mr President, I wish to say one word, if I may be permitted.

The Presiding Officer—The Manager will proceed.

Mr. Manager Grosvenor—We look upon it, on the part of the People, that we have some reasonable time for preparation. I say, upon the part of the Managers, from the commencement, before this Senate organized as a Court of Impeachment, as soon as the impeachment was made and the Managers elected, they have been continuously upon the strain to prepare this case. In order to save the Senate any delay, they have worked night and day,—Sundays not excepted,—however it may appear upon the record. We ask no delay, now, for rest or recreation; but we ask simply for a reasonable time in order to prepare a proper and creditable presentation of this case. If we are forced to proceed at once with the arguments, we will do the best we can; but we sincerely hope, that the time asked for in the resolution may be granted.

Senator Moffatt—Mr. President, as an individual, I should be very glad to support the motion made by the gentleman from Berrien (Mr. Alexander), to grant the Managers and counsel for the respondent time to prepare a fine, nice, flowery speech, to go upon the records of this State, to do themselves honor and credit; but as a Senator, sir, I protest against it. I protest against the time of this Senate being taken up for the accommodation of the Managers and counsel. I protest against a large bill of expense being made here for no other reason than to accommodate these gentlemen. I say, as an individual, I should be very glad to do it, but as a Senator I never shall, and this motion shall not be carried by my vote. These gentleman can argue this case to the Senate and present the points to it in a shape that we can understand; I have no doubt of it; I have too much respect for the ability, both of the Managers and the counsel for the

respondent, to doubt it for a moment. I have no doubt but what they could present it in better shape, if the time asked for should be granted,—I have no doubt that they could appear better upon the record; but, sir, will that justify this Senate in losing so much time? Will it compensate it for the expense that will be incurred by this adjournment? I say, sir, it will not justify me in supporting such a motion. I say to those gentlemen that if they had been engaged a month or six weeks in a court of record,—one of our circuit courts before a jury,—that when the case was closed, it would go to the jury at the drop of the hat. The court would not keep twelve men three or four days to let counsel get ready to make an argument before them, and yet they propose to keep this Senate here, of twenty-eight or twenty-nine men, and at a large expense to the State, in order to put themselves in a little better shape upon the record. I say, I protest against it, and I shall not vote for it, because, as far as I am concerned, as soon as this testimony is in, I want to see them go on with the argument.

Mr. Alexander—Mr. President, just one moment—

The Presiding Officer—Under the rules the Senator cannot discuss this question but once.

Mr. Moffatt—I ask for the ayes and nays.

The roll was called, and the resolution was adopted, by yeas and nays, as follows:

YEAS.

Mr. Alexander,	Mr. Price,	Mr. Wilcox,	
Briggs,	Randall,	Wood,	
Cawley,	Romeyn,	President	
Gay,	Stockbridge,	*pro tem.*,	
Jenks,	Waterbury,		15
Neasmith,	Wheeler,		

NAYS.

Mr. Ball,	Mr. Moffatt,	Mr. Putnam,	
Barber,	Prutzman,	Storrs,	
Dexter,			7

195

Mr. Waterbury—I offer the following resolution:

The Secretary read the resolution, as follows:

Resolved, That the Sergeant at Arms be directed, from this day, to discharge all of his assistants but one.

Mr. Wheeler—I move to amend the resolution, by adding the words "that all messenger-boys, but one, be discharged by the President."

The Presiding Officer—The question is upon the amendment. The Secretary will call the roll.

The roll was called, and the motion to amend did not prevail, by yeas and nays, as follows:

YEAS.

Mr. Barber,	Mr. Randall,	Mr. Waterbury,
Dexter,	Stockbridge,	Wheeler,
Neasmith,	Storrs,	Wood,
Price,		10

NAYS.

Mr. Alexander,	Mr. Jenks,	Mr. Romeyn,
Ball,	Moffatt,	Wilcox,
Briggs,	Prutzman,	President
Cawley,	Putnam,	*pro tem.*.
Gay,		12

The Presiding Officer—The amendment is lost. The question is upon the resolution as originally offered. The Secretary will call the roll.

Mr. Alexander—I would like to inquire how many assistants the Sergeant-at-Arms has?

The Presiding Officer—Four, I think.

Mr. Alexander—I move, then, Mr. President, to amend the resolution.

The Presiding Officer—The Senator is out of order. The Secretary has been directed to call the roll. The Secretary will proceed.

The roll was called, and the resolution was adopted, by yeas and nays, as follows:

YEAS.

Mr. Alexander,	Mr. Moffatt,	Mr. Storrs,
Ball,	Neasmith,	Waterbury,
Barber,	Price,	Wheeler,
Briggs,	Prutzman,	Wilcox,
Cawley,	Putnam,	Wood,
Dexter,	Randall,	President
Gay,	Romeyn,	*pro tem.*,
Jenks,	Stockbridge,	22

NAYS. 0

The Presiding Officer—The resolution is adopted.

Mr. Moffatt—Mr. President, I move the adoption of the following order.

The Secretary read the order, as follows:

"*Ordered*, That the argument in this case be opened on behalf of the prosecution by, at least, two of the Managers; that they be followed by the counsel for the respondent; and the final argument made by one of the Managers."

The Presiding Officer—Do the Honorable Managers wish to be heard?

Mr. Manager Huston—Mr. President, I do not see any reason for making this order, changing the rule, as I understand it, that was adopted by the Senate. For one, I have no objection to the proposition, as submitted by the Senator to counsel last evening: that is, that the case be opened by one of the Managers,—followed by one of the counsel for the respondent,—he to be followed by one of the Managers,—then the other counsel for the respondent,—the argument to be closed by one of the Managers. I have no particular objection to that. It seems to me that that would be better and fairer, and as it ought to be, and, I submit, that is the ordinary way in court. We are willing to open our case, and open it fully, by one of the Managers; and then, if it is thought best to have one of the counsel for the respondent, followed by one of the Managers, I have no objection to that.

The Presiding Officer—Do the counsel for the respondent wish to be heard upon the motion?

Mr. McGowan—Just a word. There are three Managers, and but two counsel for the respondent. All that we ask, and all that we claim, on the part of the respondent is, that the case shall be fully opened on the part of the Managers. Not that it be stated, Mr. President; not that the law points be argued, and the facts left; but they, having the affirmative, shall present the case fairly and fully before the Senate, upon all the points that they claim, before we present the case to the Senate; and it seems to me that can only be done in this order.

Mr. Manager Grosvenor—Mr. President, I cannot see, as my associate has said, any reason for taking this case out of the ordinary rule. The ordinary rule would be just the reverse of this stated. Suppose this was an indictment for murder, you would compel the prosecution—in case there were three counsel—you would compel the prosecution to open the case fully; would then give the case to the defendant, and he would say all he had to say, and then you would allow the people the close, either by two or more. I think that is the way.

The Presiding Officer—The scope of this order is simply that all three Managers may open the case if they choose, as I read it; that then the counsel for the respondent shall make their argument, and then the final argument upon the part of the Managers should be made by one Manager. That is the scope of the order that lies before the Chair.

Mr. Manager Grosvenor—Yes, but it is not compulsory that we *shall*,—that the case *shall* be opened and argued—

The Presiding Officer—By two.

Mr. Manager Grosvenor—By two. Now I submit, whether that is not an extraordinary rule in this State; whether the rule as stated by Mr. Huston would not be a fairer rule for the people,—to sandwich them in, first the People, then the respondent, then the People, then the respondent, and close with the People.

The Presiding Officer—I would call the attention of the Honorable Manager to the rule that was adopted in the John-

son case. I will not read the whole of the rule, but simply the conclusion of it: "But the conclusion of the oral argument shall be by one Manager."

Mr. Manager Huston—That would be the fact if they were sandwiched in.

Mr. Manager Grosvenor—That would be the order which I proposed. I suppose that there will be three arguments, and there will be one to open, of course. We submit to the Senate that we will open the case fully and fairly; the application of the testimony in detail, perhaps, will be left to another, and the replication, the final reply, by the Manager who shall close the case, will be but little more than answering the argument of the counsel for the respondent. I think if they were sandwiched in, in that manner, it would be much better,—it seems to me the better rule. There can be no advantage, one way or the other, and we ask that the rule may be modified so as to allow one counsel on a side,—allowing the People to open the case, and to close it. We think that is a fairer and better rule.

The Presiding Officer—Senators: The question is upon the motion made by the Senator from the Thirty-first; are you ready for the question? The Secretary will call the roll.

The roll was called, and the motion did not prevail, by yeas and nays, as follows:

YEAS.

Mr. Ball,	Mr. Moffatt,	Mr. Randall,	
Barber,	Price,	President	
Briggs,	Prutzman,	*pro tem.*,	8

NAYS.

Mr. Cawley,	Mr. Neasmith,	Mr. Waterbury,	
Dexter,	Putnam,	Wheeler,	
Gay,	Stockbridge,	Wood,	
Jenks,	Storrs,		11

The Presiding Officer—The motion is lost.

Mr. Manager Grosvenor—We are ready to proceed with the testimony.

The Presiding Officer—Counsel may proceed.

TESTIMONY OF A. N. HART.

A. N. Hart, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Grosvenor:

Question. Judge Hart, do you reside in the city of Lansing?

Answer. I do, sir.

Q. How long have you resided here?

A. I have resided here about twelve years, sir.

Q. Are you pretty well acquainted in the city?

A. Generally, I am.

Q. You are one of the Representatives from this county?

A. Yes, sir.

Q. Are you acquainted with James H. Baker?

A. I am, sir.

Q. How long have you known him?

A. Well, I have known him for ten or eleven years.

Q. Are you acquainted with his neighbors and associates?

A. Many of them, I am.

Q. Do you know his reputation for truth and veracity, in the neighborhood where he resides?

A. I think I do.

Q. What is that reputation for truth and veracity,—good, or bad?

A. I think it good, sir.

CROSS-EXAMINATION OF A. N. HART.

Cross-examined by Mr. McGowan:

Question. Judge, who did you ever hear say that his reputation for truth and veracity was good?

Answer. Well, I don't know as I ever heard that question asked; but I know him personally as a business man, and I think his general reputation has not been disputed.

Q. Ever heard it brought in question?

A. No, sir.

Q. That is what you mean, then, when you say that it is good?

A. Well, so far as other persons are concerned, I never heard others express it. I have acquaintance in business with him myself.

Q. Do you know of Mr. Baker once assisting as deputy sheriff, or in that capacity, in the Supreme Court room?

A. I have seen him in that capacity there.

Q. Do you know whether he ever presented a charge to the Auditor General for services done there?

A. I do not.

Q. Judge Hart, have you not heard it said that he presented such a charge, and that in that list of items there was an item for taking care of the court-room, and that he then said to the Auditor General that he had paid out the money to a certain janitor for taking care of that room? Did you hear that story?

A. I never heard that, sir.

Q. And that the charge proved to be utterly false?

A. I never heard anything of that.

Q. You have not heard that talked about?

A. Not that transaction; no, sir.

TESTIMONY OF JAMES I. MEAD.

James I. Mead, a witness produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Grosvenor:

Question. Do you reside in this city?

Answer. I do, sir.

Q. You are a merchant here?

A. Yes, sir.

Q. How long have you resided here?

A. Seventeen years.

Q. Been engaged in business during that time?

A. Yes, sir.

Q. Active business?

A. Yes, sir.

Q. Are you acquainted with James H. Baker?

A. I am.

Q. How long have you known him?

A. Seventeen years.

Q. Where has he resided during that time?

A. In this city.

Q. Are you acquainted with his neighbors and acquaintances?

A. Yes, sir.

Q. Do you know what his general reputation for truth and veracity is in the neighborhood where he resides?

A. Never heard it called in question.

Q. From what you know of his general reputation, is his reputation for truth and veracity good, or bad?

A. I should call it good, sir.

CROSS-EXAMINATION OF JAMES I. MEAD.

Cross-examined by Mr. McGowan:

Question. You never heard it talked about?

Answer. No, sir.

Q. Did you ever hear this story of his presenting the false account to General Humphrey for allowance?

A. I did not.

Q. Heard it talked in the street or anywhere?

A. Never heard of it before.

Q. Are you in any way related to Baker?

A. Not at all.

Q. Have you any business relations with him?

A. Business relations? Yes, sir; had a good deal of business with him.

TESTIMONY OF S. W. WRIGHT.

S. W. Wright, a witness produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Grosvenor:

Question. Do you reside in this city?

Answer. I do, sir.

Q. How long have you resided here?

A. Since 1850, the most of the time.

Q. Have you been an active business man during that time?

A. I have, a portion of the time, sir.

Q. Are you the treasurer of the city at this time?

A. I am not.

Q. Have you been?

A. I have not been treasurer of the city.

Q. Have you been mayor of the city?

A. I have been mayor of the city.

Q. Do you know Mr. James H. Baker?

A. I am acquainted with him.

Q. How long have you known him?

A. I have known him some sixteen or eighteen years.

Q. Where has he resided during that time?

A. He has resided here.

Q. Are you acquainted with his neighbors and associates?

A. I know the most of them.

Q. Are you acquainted with his general reputation for truth and veracity, in the neighborhood where he resides?

A. I am acquainted with it, so far as general reputation is concerned.

Q. Is that general reputation for truth and veracity good, or bad?

A. I have not heard it doubted.

Q. You say it was good, then?

A. That it is good.

CROSS-EXAMINATION OF S. W. WRIGHT.

Cross-examined by Mr. McGowan:

Question. You have never heard it called in question in any event?

Answer. I have never heard it called in question in any event.

Q. Let me call your attention to this: Did you ever hear of a list of charges made in the service of the execution against a Mr. Camp?

A. I never heard anything said about it that I now remember.

Q. Let me see if I can refresh your recollection,—whether there was not a story circulated, and that it reached you, Mr. Wright, that he, as deputy sheriff, had made some charges against Mr. Camp in the service of an execution, and some of the charges were false, and that he insisted upon them?

A. I do not remember of any such circumstance.

Q. Did you ever hear of this bill presented to the Auditor General, which had a false charge in it?

A. I never had.

Q. Have you heard any intimation of this story since this case came up?

A. I have not. I have not read the testimony.

TESTIMONY OF J. S. TOOKER.

J. S. Tooker, a witness, produced, sworn, and examined on the part and behalf of the House of Representatives, testified as follows:

Examined by Mr. Manager Grosvenor:

Question. You reside in this city, sir?

Answer. I do, sir.

Q. How long have you resided here?

A. Twenty-five years.

Q. Are you the present mayor of this city?

A. I am, sir.

Q. Do you know James H. Baker?

A. Yes, sir.

Q. How long have you known him?

A. About eighteen years, I think.

Q. Where has he resided during that time?

A. In Lansing, most of the time.

Q. In this city?

A. Yes, sir.

Q. Do you know his neighbors and acquaintances.

A. Many of them.

Q. Do you know what his general reputation for truth and veracity is, in the neighborhood where he resides.

A. I think it to be good. I never heard it questioned.

Q. Well, now, is that reputation for truth and veracity good or bad?

A. I think it to be good. I never heard it questioned.

CROSS-EXAMINATION OF J. S. TOOKER.

Cross-examined by Mr. McGowan.

Question. Did you ever hear his reputation for anything questioned?

Answer. No, sir.

Q. For being a man addicted to strong drink, or anything—going after women or anything of that kind?

A. No, sir.

Q. Nothing of the kind,—never heard any of these stories?

A. I never have.

The Presiding Officer—Does the Chair understand now that the evidence on the part of the Managers is closed?

Mr. Manager Grosvenor—I understand that it is closed; but if the absconding witness should be brought to light between now and the time of the argument that will be another thing. We submit the case now. So far as we are concerned we have no further testimony.

The Presiding Officer—That, of course, will be discretionary with the Court at the time.

Mr. Manager Huston—This book, denominated the scrip-book in the Commissioner's office, by the consent of the counsel for the respondent, with whom I have consulted on the subject, may be considered as one of the exhibits in the case.

Mr. Shipman—Any documents that have been used here, you can have the original at any moment.

The Presiding Officer—Let me suggest, right here, that there is no objection to all these exhibits being taken back to the office, or to some place where they will be safe.

Mr. Huston—We have none.

Mr. Shipman—Do I understand that the case is now closed, as far as the evidence is concerned?

The Presiding Officer—The Chair understands that it is now closed, with the Managers making a single exception as to the witness Jane Bolton, claiming that if she should be produced in the meantime, that they will appeal to the Court for its decision as to whether the testimony should be admitted,—if she is found in the meantime.

Mr. Shipman—I do not know that it would be in order to offer this resolution, which meets the views of the Managers on the other side, in regard to the argument of the case.

The Presiding Officer—The counsel for the respondent moves for an order, which the Secretary will read.

The Secretary read the order, as follows:

"*Ordered*—This cause be argued as follows: *First.* By one Manager. *Second.* By one of the respondent's counsel. *Third.* By another of the Managers. *Fourth.* By another of the respondent's counsel. *Fifth.* That the final argument be made, and the case closed, by one Manager."

Senator Wheeler—I move the adoption of the order.

The roll was called, and the motion for the order prevailed, by yeas and nays, as follows:

YEAS.

Mr. Barber,	Mr. Price,	Mr. Waterbury,
Cawley,	Prutzman,	Wheeler,
Dexter,	Putnam,	Wilcox,
Gay,	Randall,	Wood,
Moffatt,	Stockbridge,	President
Neasmith,	Storrs,	*pro tem.*, 17

NAYS.

Mr. Briggs, 1

Senator Stockbridge—I move that we adjourn.

Which motion prevailed.

The Presiding Officer—The Senate, sitting as a Court of Impeachment, is adjourned until Tuesday morning at nine o'clock.

Lansing, Tuesday, May 21, 1872.

The Senate met, and was called to order by the President *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

Absent without leave: Senators Ball, Barber, Wilcox, and Stockbridge.

The Presiding Officer—The Honorable Managers will proceed with their argument.

Hon. Lyman Cochrane, one of the Managers on the part of the House of Representatives, addressed the Senate as follows:

MR. PRESIDENT AND SENATORS—We now approach the close of this tedious case. A few more hours and the trial which has occupied your time during so many days will be among the things that were. Your patience may have been wearied, but your earnest attention to all the details of the proceedings had before you, demands and receives our sincere thanks.

But gratified as we are for the indulgence you have shown, our duty to the high authority by which we appear before you, as well as to ourselves, requires that we make still further drafts upon that indulgence already so largely drawn upon, to ask you to listen to our closing words; to survey with us the ground which has been the scene of our legal strife, before we leave the field to you for the judicial award which the highest law of our State calls upon you to make.

Ancient as is this form of proceeding,—necessary to the full and complete administration of justice in all its parts, as experience has shown it; safe as it has been found in modern times to the accused, if innocent, but effective to deal out retribution to the guilty without opportunity of escape by legal technicalities, impeachments nevertheless have always been subject to a popular prejudice, as being a mode of trial almost insufferably protracted, unreasonably expensive, and above all as a means of persecution or even oppression to attain ends not sanctioned by law, or to strike down the accused regardless of ordinary and time-honored forms.

Men forget that as courts of equity spontaneously arose from the confessed inadequacy of express enactments or admitted precedents to deal with the ever-varied and ever-varying affairs of life; that as different tribunals have been erected, each acting in a mode peculiar to itself, and subject to distinct rules and methods of procedure to meet the exigencies of certain classes of cases, so courts of impeachments have been established with their special jurisdiction, operating in a way unknown to other courts, but adapted to a special code, and so composed as to attain specific results, equally important to the welfare of society, the rights of citizens, and perhaps even to the stability of the state.

The fact, as derogatory to human nature as it is true, that impeachments have been, and doubtless will hereafter be, employed as an instrument of political vengeance, or as a means of accomplishing the ambitious designs of party or the aggrandizement of individuals, should not be permitted to weigh one moment against this mode of proceeding when applied with proper motives against him who, by his own acts of negligence, or active misfeasance, or criminality, has placed himself within the grasp of the law which controls its jurisdiction.

I have no inclination to rehearse, nor have you, Senators, any desire to listen to an elaborate review of the origin and history of impeachments in England. However interesting

the subject may be, it has no place here, and has little bearing upon the theory of similar proceedings as practiced under the Federal Constitution, and particularly under the constitutions of the several States of the Union.

It is sufficient to say that, in England, from which our law and practice of impeachments were derived, the state of society was, and long remained such, that men high in office, powerful through their wealth, influence, or hereditary rank, were able to bid defiance to the laws of the realm, indulge in the most heinous crimes with impunity, and often to shake the very foundations of the kingdom without fear of punishment in the ordinary courts of justice.

Trial by impeachment, therefore, became a necessity. The safety of the state demanded a new tribunal before whom these high offenders might be brought; a tribunal unawed by the social or political position of the criminal, for such he was, and unlikely to be deterred in the performance of duty by threats, or bought by money. Nowhere would this judicial power be so safely lodged as with the House of Lords, in the hands of the members of which was centered a large part of the wealth of the kingdom, and whose position, being hereditary, was due to no person, or dependent for its duration upon no single human will. The House of Lords, then, became the Court of Impeachment.

The dignity of this court, and the eminent station of the persons generally to be tried before it, as well as the class of high crimes and misdemeanors upon which it was to act, and the importance of the adjudication to the welfare of the state, rendered it proper that the accuser should be some other than a mere private individual, whose motives in instituting the prosecution would not be investigated nor his means of knowledge and its probable accuracy fully inquired into before the cumbrous machinery was brought into operation. The right of accusation, as well as of prosecution, could not therefore be placed elsewhere than in the Commons, who, representing and

acting in the name of the entire people, could not be supposed to be actuated by any sinister design in taking up the charge, nor impelled by an unbecoming haste in bringing its weighty accusation before the Lords, nor urged by any other feeling than that of the welfare of the kingdom in carrying on the trial either to an acquittal or a conviction.

The trials of impeachments were in all respects criminal trials. The accused was arrested and closely confined by order of the Lords, upon request of the Commons. The case could not proceed unless in his presence, except in case of contumacious absence, where a sentence of outlawry had been first pronounced against him. All the harsh rules which then governed the practice of criminal courts were brought to bear upon his trial. His witnesses were not permitted to be sworn, but testified without oath. Counsel were allowed him, but could not interrogate either the King's witnesses or those of the accused. The defendant himself was only allowed to question them, and he might not even be prompted by his own attorneys. On the side of the accused, he alone could address the court upon the facts, nor were his counsel allowed to raise or even to suggest the points of law, but only to argue them after they were presented by the defendant.

Such was the stern, and to our minds cruel practice, which substantially governed the ordinary criminal trial, and the trial of an impeachment in England, even later than the settlement of our own State. As any amelioration of this practice was adopted in the criminal courts, it seems to have been introduced into the Courts of Impeachment.

Judgment, the only real test between civil and criminal actions, reached to property, liberty, political status, and even to life itself.

In the case of the Earl of Macclesfield, Lord High Chancellor, impeached and tried for the sale of offices within his gift, the sentence was a fine of thirty thousand pounds, and imprisonment until paid.

Lord Bacon, also Chancellor of England, and stigmatized by Pope as "the wisest, brightest, and meanest of mankind," was impeached and convicted upon his own confession of the acceptance of bribes, and sentenced to pay a fine of forty thousand pounds, suffer imprisonment for two years, be deprived of his office, and be subject to political disfranchisement.

The sentence upon the Earl of Wintown, convicted of high treason, was, of course, death. [6 Hargrave's State Trials, p. 58.]

Lords and Commoners were alike amenable to impeachment and punishment upon conviction. Such was the English law of impeachment, modified only in the practice of trials at the time of its introduction into the United States. Here no individual was found, whose elevated rank, whose family alliances, whose extensive influence, or whose more than royal wealth, raised him so far above his fellow citizens that, if accused of crime, he could not be safely trusted to a jury of his countrymen. Hereditary honors were unknown to the law, and to society. No office descended from father to son. The principal causes which had necessitated impeachments in the mother country had disappeared in this, or rather had never existed, and with them also disappeared, the criminal character which had attached to trials of impeachments. Under our form of government, offices were generally elective and official terms were for short and stated periods.

Men, however, might be elected, and experience has shown that such will be elected, who are totally incompetent to perform the duties which the law and their position imposes upon them. Corruption, too, might creep into high places,—official station never has and never will have any tendency to purify the moral atmosphere of men's souls. The officer might be guilty of serious misconduct affecting private rights or public interests. Official investiture does not change human nature, and crimes may be committed by those whom the people have

delighted to honor. In every way, the confidence testified to by a popular election might be betrayed in the most wanton manner. To the trusts reposed in the office, he might prove utterly recreant. The dignity and honor which ought to accompany official station might be derogated from by crime or disgraceful personal conduct.

The right of removal was necessarily, therefore, reserved to the People, both to protect themselves and to guard the purity of, and preserve the respect due to the offices which they had created, not for incumbents, but for the public good.

But how was this right to be exercised without risk of abuse, or danger of creating evils equally as great as those to be remedied?

Stability of official tenure must be admitted to be not less important in any form of government than the power to remove incompetent or criminal persons from office. Upon the one hand this was to be guarded, while on the other, removal for proper cause was not to be rendered impossible or even too difficult.

Accusation, and a fair trial of the incumbent, if not his perfect right, would, at least, be justice to him. Yet, as they were not to be placed beyond reach, so they were not to be made too easy. The will of the majority, as expressed by an election, or as presumed by his appointment, emenating from some person or persons upon whom the power of such appointment had been conferred, was to be regarded as the *suprema lex*, and yet the decision of the popular voice was not in all cases and under all circumstances to be held irrevocable.

The right of absolutely removing incompetent, misdemeaning, or criminal officers, could not safely be vested in the executive.

He might be subject to influences which would entirely prevent the exercise of a reasonable discretion in his decision. It was not impossible that he might be overborne by corrupt inducements or solicitations on the one side or the other, by fear,

or by the expectation of advantage, which would render him forgetful of, or prevent his listening to, the demands of justice and the public welfare. Natural timidity of character might deter him from the performance of a disagreeable duty.

Besides, how was the executive to be reached?

The objections against leaving this power with the judiciary were little less potent. Judges, like other men, are subject to influences the effect of which they cannot avoid, and the very existence of which would at all times be likely to render their determination in this matter suspected. Their character for purity and integrity could hardly escape unsullied. Their influence and the respect due to their position would not fail to be lessened. The imposition upon them of a duty so embarrassing would be fraught with evils to their judicial character more than sufficient to counterbalance any benefits to be derived from it, so long as any other repository of the power existed. Still further, the inflexible rules which the ordinary courts of law adopt; their devotion to precedents which would insensibly but inevitably lead them to give a practical expression or definition of what constitutes an "impeachable offense," which, for reasons as wise as they are apparent, parliamentary law has avoided; and would result in injustice, bearing upon the accused as often as upon the accuser. And yet more,—how was the judiciary itself to be removed in case of delinquency or criminality?

But one other alternative was left, which was to place the power of removal for misconduct or crime in the Legislature. This body would always be sufficiently numerous to divide the responsibility, and free it from any probabilty of being actuated by fear. Corrupt means were not likely to be practiced upon it without speedy detection.

While as effectual as the ordinary courts of law, its machinery was too cumbrous to be put into operation until the occasion had risen to the dignity of a State necessity. Composed, as as it would be, of every class of society, it would naturally refuse to be "cabined, cribbed, confined" in its proceedings

by the narrow limits within which other judicial tribunals seem so ready to restrict themselves. Precedents which constitute the guiding star of other courts would lose much of their force. Its adjudication, while having all the solemnity of a judgment, would be the result of the aggregate good sense of all its members, looking to the attainment of justice between the parties, and the general welfare of all.

Above all, it would be the appeal of the People to itself, either reversing its own prior decision, by declaring that its chosen agent was incompetent to perform the duties assigned; that by misconduct he had forfeited the confidence, and betrayed the trusts reposed in him; or by crime had rendered himself unworthy of the honor conferred upon him; or, upon the other hand, it would affirm that decision, asserting, through its representatives, that its officer was competent, that he was honest, that he was free from the stain of crime.

The reasons for the removal of persons from official position being equally potent under every form of government, or condition of society, the framers of our earliest constitutions naturally placed this prerogative in the body corresponding with that in which it had been found, under the English constitution, to which they had been accustomed. Experience, and the lapse of four hundred and fifty years, had discovered no other or better depositary of this important power.

The forms of proceeding originally adopted, and substantially adhered to by the British Parliamentary law, were as naturally followed. Hence, impeachment by one House, and conviction had thereon by the other after due trial, became and has since remained the basis of the sentence of removal, and whatever other disqualifications the framers of such constitutions have seen fit to attach to delinquent officials.

We are not forgetful that a limited power of removal from office has in most of the States of the Union been vested elsewhere than in the Legislature, to meet particular emergencies. Its consideration, however, has no place in this branch of our argument.

For the first time in the history of impeachment trials in this country, so far as we have been able to discover, we are called upon to meet the question, whether criminal acts committed by a civil officer, and disconnected with his official duties, are the subject of impeachment and a cause for removal upon conviction.

The articles in this case distinctly charge such acts upon the respondent; and evidence to substantiate them has been offered and admitted, subject to the exception taken by the learned counsel of the Commissioner at the commencement of the trial. The issue has been fairly presented, and we have been notified that we must meet it.

We ask the attention of the Senate to the history of the impeachment clauses of the Federal Constitution, so far as we are able to learn it from the meager debates which have come down to us.

It will be recollected that we have claimed that, by the law of England, trials upon impeachment were purely criminal, both in fact and in theory. They had a known definite signification, based upon an uninterrupted practice of nearly five centuries. This signification and practice were well understood in America at the time of the formation of our constitution. There is not a syllable in the cotemporaneous history of that period to imply or even to intimate that the definition of the term *impeachment* had been in any respect changed by or on being transported to this country.

In the early part of the convention, and on the same day, Mr. Randolph of Virginia, and Mr. Pinckney of South Carolina, severally introduced plans of a constitution.

The plan of Mr. Randolph contemplated the establishment of a "National Judiciary," to consist of "one or more supreme tribunals, and of inferior tribunals, to be chosen by the National Legislature." The jurisdiction of the inferior tribunals was to hear and determine in the first instance, and of the supreme tribunal to hear and determine in the *dernier resort*" (among

other things), "impeachments of national officers." [5 Elliot's Debates, p. 128.]

This is all that is found in this plan relative to the subject.

These remarkable differences will be observed between the proposed method and that which had, from time immemorial, been established in England: 1st. The trial was to be had by a tribunal wholly judicial; 2d. the right of appeal was given; 3d. None but national officers could be impeached.

No provision was made for setting the impeachment in motion. It may have been supposed that this power would vest in "the first branch of the Legislature," as it was termed in analogy with the English practice.

By Mr Pinckney's plan the "House of Delegates" possessed the "sole power of impeachment." [5 Elliott's Debates, p. 129.]

All impeachments were to be tried in one superior court of law, established by the general government, except where they "affected embassadors and other public ministers," in which case the jurisdiction of the Supreme Court was to be original. [Idem 131.] "Officers of the United States" alone, were to be held liable to impeachment, and the President was to be removed when impeached by the House, and convicted in the supreme court "of treason, bribery, or corruption." Appeals were also allowed.

With the exception of the case of the President, in Mr. Pinckney's plan; when removal upon conviction was imperative and merely cumulative in the cases specified, the term *impeachment* in both of these schemes seems to have the same broad signification and to cover the same class of crimes or misdemeanors, that it did under the English parliamentary law, and in no respect to differ from it, as there defined by usage. There was no limitation of causes of impeachment, but only of persons liable to the proceeding.

The next time that impeachments appear in the proceedings of the convention, was nearly a month later on an informal

proposition by Mr. Hamilton, to amend Mr. Randolph's plan, as follows:

"IX. The Governor, Senators, and all officers of the United States, to be liable to impeachment for mal and corrupt conduct, and upon conviction to be removed from office, and disqualified for holding any place of trust or profit. All impeachments to be tried by a court to consist of the chief ——, or judge of the superior court of law of each State, provided such judge shall hold his place during good behavior and have a permanent salary." [5 Elliott's Debates, p. 205.]

This proposition varied from those previously introduced, in three essential particulars: 1st. Provided a special and exclusive court for the trial of impeachments without appeal; 2d. While not *restricting* the sentence to removal from office and disqualification, it rendered it imperative in all cases upon conviction; 3d. It expressly limited the grounds of impeachment to official misconduct, whether consisting of crimes or other misfeasance. The language here employed was doubtless derived by Hamilton from the first Constitution of New York, which had been adopted ten years previously.

It is perfectly evident that the aim and intent of this amendment was to limit impeachable offenses to negligence, crimes, or misdemeanors purely official in their character. The terms employed are too distinct to admit of doubt upon this point. They are words of *limitation*, restricting the language of the law from which impeachments were derived.

Subsequently, the committee of detail handed in its report, containing the draft of the Constitution as revised by them. This draft provided: 1st. That the House of Representatives should have the sole power of impeachment; 2d. The Supreme Court was to have original and exclusive jurisdiction of cases of impeachment; 3d. Officers of the United States alone, were liable to impeachment, and the judgment was not to extend beyond removal and disqualification, except that in case of the conviction of the President of treason, bribery, or corruption, his removal simply was made obligatory.

Mr. Hamilton's restrictive clause seems to have failed of sufficient support in the committee; and, again, no limitation of *impeachable offenses* is found.

We have not had time to trace the history and various phases through which this portion of the Federal Constitution passed before it took the form in which we now find it.

It is sufficient to say, that the most cursory examination of the debates which took place in that convention will not fail to convince any one that no word or expression is found in the Constitution which was not fully weighed, and freed, so far as is possible in human language, from ambiguity and double meaning. As a consequence of this care, perhaps no constitution ever adopted has been a subject of so little dispute within an equal period.

If it had been the intent of the framers of that instrument to *limit* impeachment to "high crimes and misdemeanors" connected with official duties, it is more than strange that they should have chosen the well known but unlimiting phrase of the English law to convey this idea of restriction. Still more strange does it appear when it is recollected attention must have been called to the subject by Hamilton's proposed amendment, and that nearly all of the States having constitutions at the formation of the Federal Constitution expressly limited impeachment to official misconduct or to offenses connected with the discharge of official duty.

During the first impeachment trial which occurred under the Constitution of the United States, that of Blount, in 1797 and 1798, the point was fully discussed.

Mr. Dallas, one of the counsel for the respondent, said:

"It is evident, however, from the description of persons and offenses impeachable, and the qualified nature of the punishment to be inflicted on a conviction, that official offenders and offenses were alone contemplated. This opinion is fortified by the express provisions of the Constitutions of the individual States." Here Mr. Dallas read extracts from the Constitutions of New Hampshire, Massachusetts, New York, Pennsylvania, North

Carolina, South Carolina, Georgia, Vermont, Kentucky, and Tennessee, all of which restricted the power of impeachment to the case of offenses committed in office. And he remarked that this being the sense of the States individually it may fairly be presumed to be their sense collectively. In politics, as well as in mathematics, all the parts are equal to the whole; and when we find all the parts pursuing this policy, we must, in order to be consistent, ascribe the same to the whole when acting on the same subject. [Wharton's State Trials, p. 277.]

It will be seen, from this extract which I have read, that this question was fairly presented on that trial.

Mr. Ingersoll, on the same side, argued that, "The punishment is official, if I may be allowed the expression, and therefore peculiarly adapted as a punishment for malconduct in the office; and surely a civil officer of the United States ought not to be deprived of a trial by a jury of the vicinage in criminal cases, but by express words or necessary implication. Whoever examines the Constitution of the United States with critical attention and compares it with the State Constitutions, will find that many principles of the latter are adopted and introduced into the former, where the proceedings by impeachment were confined to crimes and misdemeanors alleged to have been committed by officers in the execution of their offices. Such, I conceive, was the general sense of the country as to the proper limits of this proceeding, and that to give it a greater extent was both dangerous and unnecessary. Offenses not immediately connected with office, to obtain the purpose of essential justice, are best decided in the courts of the States of the United States, where party and witnesses and jurors are known to each other.

Mr. Harper, in reply, said:

"It cannot then, I apprehend, be doubted that the term 'impeachment,' in our Constitution, has, and was intended, by the framers of the Constitution, to have precisely the same meaning, force, and extent, as in the English law, and it being

perfectly clear, that in the English law the power of impeachment is unlimited, and extends to every person and to every offense, it follows, undeniably, that the position of my learned colleague remains unshaken, and that the defendant, in the present case, is liable to impeachment for the offenses charged against him by the House of Representatives."

Again, on page 301, he remarks:

"The learned counsel for the defendant have adduced many of the State Constitutions, to show that the States have, in their own Constitutions, restricted the power of impeachment to official persons and official offenses; from whence, according to them, it ought to be inferred that the States, in ratifying the Federal Constitution, intended that the power of impeachment, which it contains, should be restricted in the same manner. But, Mr. President, I cannot descern how this inference is warranted. The very contrary, I should suppose, should be inferred. It must be remembered that in the State Constitutions the power is expressly limited; and that terms are employed, very different from those to be found in the Federal Constitution. This proves that where the States intended to limit the power, as in their own Constitutions, they employed express words for that purpose; from whence it may, surely, be inferred that when they took the Federal Constitution, without any such express words, they intended to take the power of impeachment along with it, without any such limitation. It must also be remarked, that the convention which framed the Federal Constitution was composed of members from each State, who must have understood their own State Constitutions, and the limitations, on this subject, which they contain. Had they intended to limit the power of impeachment in a similar manner, they would, no doubt, have done it by express words, as in their respective State Constitutions."

It is true that Blount was not convicted, but the decision rested entirely upon the gound that a Senator of the United States who had been expelled was not liable to impeachment for any cause. So stated by Wharton in a note upon this case

p. 317; Story on the Constitution, 802, and Sergeant on the Constitution, p. 376.

We admit that the same question has been a fruitful topic of discussion in subsequent trials, and that Judge Story declares that up to the writing of his commentaries, it had not been decided. As usual upon disputed points, he declines to give an opinion. [Vol. on the Constitution.] It must be confessed however, by the counsel for the respondent, that these arguments have rather been theoretical than practical, and that in none of the cases under the Federal Constitution, have charges been made of positive, or rather, as they are technically called, of true crimes. A learned author, disconnected with any impeachment trial, and consequently free from any suspicious bias, says:

"Although an impeachment may involve an inquiry whether a crime against any positive law has been committed, yet it is not necessarily a trial for crime; nor is there any necessity, in the case of crimes committed by public officers, for the institution of any special proceeding for the infliction of the punishment prescribed by the laws, since they, like all other persons, are amenable to the ordinary jurisdiction of the courts of justice in respect of offense against positive law. The purposes of an impeachment lie wholly beyond the penalties of the statute or the customary law. The object of the proceeding is to ascertain whether cause exists for removing a public officer from office. Such a cause may be found in the fact, that either in the discharge of his office, or aside from its functions, he has violated a law, or committed what is technically denominated a crime. But a cause for removal from office may exist where no offense against positive law has been committed, as where the individual has, from immorality or imbecility, or mal-administration, become unfit to exercise the office.

"The rules by which an impeachment is to be determined are therefore peculiar, and are not fully embraced by those

principles or provisions of law which courts of ordinary jurisdiction are required to administer." [2d Curtis' History, p. 260.]

In the opinions delivered in the Johnson case, it seems to have been admitted, upon both sides, that the impeachment of an officer might be had for any violation of law amounting to criminality. I shall refer to but two of these opinions. I refer to the opinion of Senator Sherman,—3d vol. Andrew Johnson Trial, page 3,—which reads as follows:

"We are not bound to technical definitions of crimes and misdemeanors. A willful violation of the law, a gross and palpable breach of moral obligations, and tending to unfit an officer for the proper discharge of his office, or to bring the office into public contempt and derision, is, when charged and proven, an impeachable offense. And the nature and criminality of the offense may depend on the official character of the accused. A judge would be held to higher official purity, and an executive officer to a stricter observance of the letter of the law. The President, bound as a citizen to obey the law, and specially sworn to execute the law, may properly, in his high office as Chief Magistrate, be held to a stricter responsibility than if his example was less dangerous to the public safety. Still, to justify the conviction of the President, there must be specific allegations of some crime or misdemeanor involving moral turpitude, gross misconduct, or a willful violation of law, and the proof must be such as to satisfy the conscience of the truth of the charge."

It will be observed that this opinion of Senator Sherman makes no reference to the connection between crime and office, but is wholly general in its character.

Senator Davis, on page 157 of the same volume, says:

"One of the leading and inflexible laws which bind this court is embodied in the Constitution in these words: 'No person shall be removed from office but on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.' That is the category of all impeachable offenses, and they must be acts declared by the law of the Unit-

ed States to be treason or bribery, or some other offense which it denominates a 'high crime or misdemeanor.' The laws which define impeachable offenses may be the Constitution, or acts of Congress, or the common law, or some other code, if adopted either by the Constitution or act of Congress."

Such, certainly, seems to have been the opinion of the Senate of the United States at the time of this celebrated trial.

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On page 159 he says again:

"Nor would any crime or offense whatever, against a State or against religion or morality, be a cause for impeachment, unless such an act had been previously declared by a law of Congress to be a *high crime* or *high misdemeanor*, and was in its character of deep turpitude. It results from this view of the law of impeachment, that as none of the articles against the President charge him with treason or bribery, which are made impeachable offenses by the Constitution, they, or some one of them, must allege against him the doing of an act, or acts, which a law of Congress has declared to be an offense against the United States, and denominated it to be, and in its vicious nature it must be a high crime or high misdemeanor, and that the President did that act with criminal intent to violate the law."

There is the only one limitation, according to Senator Davis,—there must be a *high* crime or misdemeanor.

Although this opinion was in favor of the President, and wrought out with great elaborateness, it nowhere intimates that an impeachable crime must, under the Constitution of the General Government, be connected with official action. The silence of the Senator upon this point is as significant of his idea as though it had been stated in the most positive terms.

This somewhat lengthy examination of the Federal Constitution, and reference to the trials which have been had under it, has been made for the reason that it is one among the few Constitutions, in which impeachments have not been expressly limited to misconduct or crimes and misdemeanors in office. Whatever light may be derived from the history of that instrument, or from writers and discussions, relative to impeachments under it, has a direct bearing upon the points raised by the respondent's counsel. I shall not weary your patience, Senators, by a repetition of the provisions of the Constitutions of the several States, relative to this power. From the formation of the first State Constitution, down to the present time, but six are found without a special and express limitation of impeachable offenses to those which are connected with official duty. I do not here include those few in which impeachable offenses are wholly left to the action of the Legislature, and where the Constitution confers simply the power of impeachment, without any designation whatever of the grounds or causes upon which it may be based. Prior to 1835, when our first Constitution was adoped, twenty-six Constitutions had been in force, in which the power of impeachment had been expressly restricted to official offenses, and but two were found which authorized impeachments for crimes and misdemeanors, without such limitation. In the former class of Constitutions, the limiting expression had settled down to a fixed phrase or formula. The terms generally employed were, "misconduct in office," "maladministration or corrupt con-

duct in office," or "crimes and misdemeanors in office." At least two-thirds of the twenty-six Constitutions already referred to, contained the latter expression; an expression evidently adopted to avoid the ambiguity which, in the early days of the Constitution, had been claimed to exist in that instrument. Now it is remarkable that the framers of our Constitution of 1835, should have employed almost the precise expression which, in the Federal Constitution, had been productive of severe contests and protracted discussion, while they had before them twenty-six Constitutions, in which the doubt, assumed or real, which had been expressed relative to a similar expression in the Constitution of the General Government, had been so completely, so simply, and so obviously dispelled by the employment of words naturally tending to restrict the meaning of the phrase, within the precise limits intended.

Between the Constitution of 1835 and the formation of our present Constitution, two Constitutions in other States were adopted containing express words of restriction on the power to impeach officers for crimes and misdemeanors, and one without such words. No term of limitation is found in our proposed Constitution of 1868. Between the time just mentioned and 1850, the year of the adoption of our present Constitution, at least thirteen State Constitutions had been formed in which impeachments were restricted to official crimes and misdemeanors, while but three were adopted without such limitation in terms.

If the theory of the learned counsel for the respondent be correct, then the insertion of the clause under consideration would augur gross carelessness or an absolute ignorance of proper language to express, fully and completely, the idea and intention not only of the framers of our first Constitution, but of the two which have been since formed. Still further, we shall be compelled to bring a like charge against those who have drawn up similar Constitutions in five other States, and now, or formerly, in force. Is it not more consonant with the recognized canons of legal construction, to conclude that the

authors of these instruments have said all that they intended; that they have said precisely what they intended; that no interpolation is necessary, or will be permitted, unless to explain a patent ambiguity or to carry out the letter of these fundamental laws? The amendment of our Constitution, ratified in 1862, relative to the removal of officers by the Executive, points to a plain distinction between the causes of such removal and the grounds of impeachment contained in Section 1, Article XII.

This section declares (Sec 8, Art. XII., Manual 1871, p. 73) the causes of removal to be "corrupt conduct in office," so far following the exact language of the impeachment clause. Why did it not continue? Evidently because the intent was to limit the power of the Governor to misfeasance or malfeasance in office. It is so expressed; but crimes and misdemeanors in office are either misfeasance or malfeasance therein, and nothing more. Why, then, did it not follow the terms employed in Section 1, or declare succinctly that such removal might be had for any cause which shall be sufficient ground for an impeachment? Such an expression would not have failed to have suggested itself;—the language used in Section 6 would have forced it on the authors of that amendment.

But the counsel for the respondent may say that there is a distinction between their claim and terms of Section 8. If so, we must patiently await further information from them.

We believe that we may firmly plant ourselves upon the position that our Constitution confers the power of impeachment for crimes and misdemeanors wholly disconnected with office. That it did not intend that our Governors might be perjurers, our Secretaries of State might be embezzlers, our State Treasurers might be highway robbers, and our Land Commissioners horse-thieves, and thus disgrace not only the offices to which they were elected, but the sovereign people who elected them. We will not believe that this is the state of our law, until the power of impeachment is wholly taken away, or so restricted by express language as to leave no doubt.

We will not believe that if you find the respondent guilty of any of the crimes and misdemeanors charged in these Articles, you will say to him, "Continue your course of shame and crime;" that you will declare to the People of this State: "Your Land Commissioner has disgraced you and the high office you have conferred upon him; and yet, broad as is the language of your Constitution, it is not sufficiently comprehensive to reach him."

We shall here leave the point of your jurisdiction as to the Articles charging criminality disconnected with the official action of the respondent. If you shall believe that we have maintained any one of these charges, we shall confidently ask the judgment of the Constitution. Your construction of that instrument may not be binding upon your successors, but it will largely influence their opinions on future cases of this character which may unfortunately arise.

If the charges we have made constitute crimes and are proven, so far as we have been able to discover,—this Senate will be the first body called upon to decide the question here presented under any Constitution similar to our own. Your careful examination of the matter is expected. Your patience heretofore, leads us to feel that a question so important, one which may vitally affect the interests of the State, will receive your earnest attention.

The counsel for the respondent will claim that this is a criminal proceeding. This we deny. If we be asked if it is a civil action, as commonly understood, we answer as readily, No.

This is a special court, originated for a special case. Its judgment is *sui generis*, and touches neither life, liberty, nor property. It does not even reach the political *status* of the defendant, as do impeachments in several of our sister States.

Office is not property in this country, and though the object of impeachment be to deprive the accused of office, it affects no vested right, even where salaries or fees are annexed.

I read from Smith *vs.* Major, New York State Reports, page 520, as follows:

"An office in this country is not property, nor are the prospective fees of an office the property of the incumbent. [Conner *v.* Mayor 1, Seld. 285.] The incumbent cannot sell his office, or purchase it, or incumber it. It will not pass by an assignment of all his property, nor will such assignment affect his right to prospective fees. [Id. and cases cited, p. 290.] The Legislature may diminish or abolish the fees at pleasure, or may render it a salaried office. The corporation of the city of New York may do the same when it fixes the rate of compensation. It is only in the cases of a few of the State offices, that the Constitution prohibits such interference. [Id.] The same authority holds, and it is conceded by the appellants here, that the right to fees or compensation does not grow out of any contract between the government and the officer; but arises from the rendition of the services."

Where the right of removal for cause, whether by impeachment or otherwise, exists, the incumbent holds by his own stipulation only until he misbehaves or misdemeans himself. When that comes, the People may remove the office which they have conferred; they may annul the agency which they have created.

Hence, there is no *punishment*, which is the entire aim and scope of a criminal proceding, viewed in a legal sense.

In 6 American Law Register, p. 644, I find the following:

"It is absurd to say that impeachment is here a mode of procedure for the *punishment of crime*, when the Constitution declares its object to be *removal from and disqualification to hold office*, and that 'the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law,' for his crimes."

I will also read from the opinion of Senator Sumner, in the trial of Andrew Johnson, Vol. 3, page 249:

"There is another provision of the Constitution, which testifies still further, and, if possible, more completely. It is the

limitation of the judgment in cases of impeachment, making it political and nothing else. It is not in the nature of *punishment;* but in the nature of *protection to the Republic.* It is confined to removal from office, and disqualification; but, as if aware that this was no punishment, the Constitution further provides that this judgment shall be no impediment to indictment, trial, judgment, and punishment, 'according to law.' Thus, again, is the distinction declared between an impeachment and a proceeding 'according to law.' The first, which is political, belongs to the Senate, which is a political body; the latter, which is judicial, belongs to the courts, which are judicial bodies. The Senate removes from office; the courts punish."

Nor is this any new doctrine. It was enunciated as early as the Blount case, in 1797. I find it on page 263. Mr. Bayard says:

"I have but one observation more to make on this point, which is, that impeachment is a proceeding purely of a political nature. It is not so much designed to punish an offender as to secure the State. It touches neither his person nor his property; but simply divests him of his political capacity. It would, therefore, seem, from the nature of this body, that they were peculiarly and exclusively the proper tribunal to try impeachments."

It is true that conviction upon impeachment may, and generally is followed by a greater or less degree of disgrace. But disgrace is not the test of a criminal judgment,—men are neither imprisoned nor fined for loss of character. It is but a mere incident, and often accompanies actions purely civil. Even Prof. Dwight, in his article on trial by impeachment in 6 Am. Law Reg. 257, does not go the length of asserting that impeachment is a criminal proceeding.

"When the United States Constitution was formed," he remarks "trial by impeachment was fully developed. It was not, however, adopted in that instrument as a regular mode of criminal procedure, to be employed in lieu of an indictment. It

was made a means of trial of a crime so far as it had a political bearing. It is used as a means of depriving officers of their offices, and of disqualifying them from holding such positions in the future. Still, it is requisite that a crime should be committed as a basis for the accusation. The Constitution provides, in substance, that the offense, so far as it has a purely criminal aspect, shall be tried in the ordinary courts; while so far as it affects the official character, it shall be the subject of impeachment."

You will be cited to authorities declaring that Courts of Impeachment hold the same legal notions of crimes and misdemeanors as other judicial tribunals. This is nothing but the assertion that they recognize the known definitions of crimes; that they will not hold that larceny, robbery, or embezzlement, which has not been defined to be such either by the common law or by statute. But the amount or character of the evidence required to prove the charge of these or other crimes, may be entirely different in the one court from that required in the other. The record of conviction or acquittal in the one tribunal is not conclusive upon the other. We insist, therefore, that we are not bound to prove the charges of our articles beyond a reasonable doubt; that if these charges are grounds of impeachment, you may and should decide in accordance with the preponderance of the evidence. One, whose opinion is entitled to great weight, has gone even further. Mr. Sumner, in his opinion given on the Trial of Andrew Johnson, Vol. 3, page 255, says:

"Primarily, it is for the expulsion of the President from office. Its motive is not punishment, not vengeance, but the *public safety*. Nothing less than this could justify the ponderous proceeding. It will be for the criminal courts to award the punishment due to his offenses. The Senate considers only how the safety of the people, which is the supreme law, can be best preserved; and to this the ordinary rule of evidence is reversed. If on any point you entertain doubts, the benefit of those doubts must be given to your country; and this is

the supreme law. When tried on an indictment in the criminal courts, Andrew Johnson may justly claim the benefit of your doubts; but at the bar of the Senate on the question of his expulsion from office, his vindication must be in every respect and on each charge beyond a doubt. He must show that his longer continuance in office is not inconsistent with the *public safety*,—

> "'Or, at least so prove it
> That the probation bear no hinge or loop
> To hang a doubt on.'

"Anything short of this is to trifle with the Republic and its transcendent fortunes. It is by insisting upon doubts that the apologists of the President, at the bar and in the Senate, seek to save him. For myself, I can see none such, but assuming that they exist, then should they be marshaled for our country. This is not a criminal trial, where the rule prevails, 'Better that many guilty men should escape than one innocent man should suffer.' This rule, which is so proper in its place, is not applicable to a proceeding for expulsion from office; and who will undertake to say that any claim of office can be set against the Public Safety?"

We shall now proceed to lay before you the several statutes which we claim have been violated by the Commissioner, or by his clerks, if not with his connivance, at least with his knowledge. I read first from Compiled Laws of 1871:

"(423.) SECTION 1. *The People of the State of Michigan enact*, That it shall be unlawful for any officer or clerk employed in the State Land Office, or in the office of the Auditor General of this State, during the time of his service, or within three months after the discontinuance of such service, to purchase, either directly or indirectly, from the State, at either of said offices, any lands for sale at said offices, or either of them."

This is the act referred to in Article II. We say that the evidence is conclusive, that Barnard the Deputy, and Clarke, Van Dunham, and Griswold, have grossly violated this law.

The act to which we refer in Article III is as follows: [Comp. Laws 1871, Sections 3978, 3979, and 3981.]

(3978,) SECTION 1. *The People of the State of Michigan enact*, That the Commissioner of the Land Office is hereby required to issue a certificate of purchase to every settler or occupant of the swamp lands belonging to this State, in the proper legal subdivison, for eighty acres of said land, whenever it shall be made to appear to said Commissioner, that such settler or occupant has actually resided upon such eighty acres of land, for the period of five continuous years, and that he has also drained the same, so as to comply with the provisions of the act of Congress approved September twenty-sixth, 1850, by which said lands were conveyed to this State.

"(3979.) SEC. 2. Before any such settler or occupant shall acquire the right to occupy, or drain, any of the swamp lands, pursuant to the provisions of the preceding section, he shall file, with said Commissioner, his application, under oath, for the privilege of entering upon said land, specifying the same, for the purpose mentioned above, and obtain from the Commissioner a license to enter upon, and occupy, and drain said lands, for the purpose of obtaining title thereto.

"(3980.) SEC. 3. No person shall be entitled to the benefit of this act until he shall have made oath in such form as shall be prescribed by the Commissioner of the State Land Office, that he is not the owner of forty acres of land in any State or Territory of the United States.

"(3981.) SEC. 4. And it is further provided that the license for settlement, granted under this act, shall contain a clause which shall expressly provide that the settler or occupant shall, within three months of the date of said license, file with the Commissioner of the Land Office a certificate from the supervisor of the township in which the land is located, together with the affidavit of such settler, and that he is in the actual possession and occupancy of such land; and said license shall also contain a clause providing that the settler or occupant shall not be authorized to cut, take, and carry away any

pine, oak, or other valuable timber, unless it be to clear the land for cultivation, and then only as much as may be necessary to improve the same."

This act was subsequently modified by act of March 18, 1865 [Laws of 1865, p. 558], intended to protect the ignorant or careless but honest settler. I read from the Comp. Laws of 1871, Sections 3989, 3990:

"(3989.) SECTION 1. *The People of the State of Michigan enact*, That any swamp land licensed under and by virtue of act number two hundred and fifty-nine, and all acts amendatory thereto, from and after the expiration of five years from the date of the license may be sold by the Commissioner of the State Land Office the same as other swamp lands are now sold: *Provided*, It shall appear from the affidavit of the supervisor or two responsible citizens of the township in which the lands are situated, that no settlement has been made by the original licensee, as contemplated in the act licensing the same; that said licensee has no valuable improvements thereon; also that such licensee cannto claim exemption under the provisions of section eighty-seven of act number sixteen of the Session Laws of eighteen hundred and sixty-two.

"(3990.) SEC. 2. Any person holding a license for the settlement of State swamp lands under and by virtue of act number one hundred and twenty-eight of the Session Laws of eighteen hundred and sixty-one, who shall abandon and not reside upon the lands described in his license, for two years, shall forfeit his license; and upon the filing with said Commissioner the affidavit of the supervisor or two responsible citizens of the township in which said lands are situated, that any licensee has abandoned said land and has not resided upon the same for two years last past, said Commissioner shall declare said license void, and may sell the said swamp lands the same as other swamp lands are sold: *Provided*, That no licensee shall be deemed to have abandoned his land by reason of being engaged in the military or naval service of the United States."

The object of the latter act is too evident to need explanation. Both its letter and spirit are free from doubt. The right of the licensee vested on the issuing of the license. We admit that, prior to the act of 1865, if the licensee failed to file proof of settlement his land might, at any time, be thrown into market and resold; but where this had not been done, the law cured all defects, unless proof of non-settlement was made as required by the statute. But the ruling of the Commissioner almost entirely negatived the beneficent intention of the Legislature. It distorted the language and contravened the whole spirit of the act. It was an invention, not weak, of the enemy of the negligent licensee. It was more than a mistake on the part of the Commissioner. It was a crime. No sooner was it made in the recesses of his office, without any public notice of a change which he knew must affect scores and perhaps hundreds of settlers, than the Van Dunhams, the Cornells, the Hoyts, those harpies living on the sweat and toil of the poor man and invading his rights, swarmed around the office of the respondent. Bouck and Conley, and Heaven knows how many others, had their lands swept away, only to be plunged into litigation with some mythical Ferry in the United States Court, a hundred miles distant, or to buy them back at a sacrifice of all or nearly all their remaining property. An exhibition of indignation at such scenes is possible, even in this high presence.

It plainly appears that the Commissioner mailed certain papers known as "Every Wednesday Night," at Laporte, Indiana. This fact must convince you that he was the author or instigator of that document, and that he, either by himself or by his agents, procured the mailing of the second installment at Toledo, which reached Lansing and there circulated in the public manner already too well known to you.

By such circulation the respondent violated Section 5868 of the Compiled Laws, 1857:

"If any person shall import, print, publish, sell, or distribute any book, pamphlet, ballad, printed paper, or other thing, con-

taining obscene language, or obscene prints, pictures, figures or descriptions, manifestly tending to the corruption of the morals of youth, or shall introduce into any family, school, or place of education, or shall buy, procure, receive, or have in his possession, any such book, pamphlet, ballad, printed paper, or other thing, either for the purpose of sale, exhibition, loan, or circulation, or with intent to introduce the same into any family, school, or place of education, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding one thousand dollars."

We have assumed that this publication comes within the meaning of the statute. I believe there is not a person within this room who has not already condemned it as infamously obscene. It may not contain the broad language of the filthy brothel or the stew of the most degraded humanity, but there is enough and more than enough, to brand its author with lasting infamy, and cause the people of this State to blush for the degrading exhibition which one of their chief officers has made of himself.

But there is more in this crime than at first appears. This paper is not the work of a moment of passion. Had it been such, there might have been some palliation for the act. Its production is the labor of days, perhaps even of weeks. Not one pulsation of burning shame ever seems to have flashed across him. With cool premeditation he carries out his scheme to the end. Under a fictitious name the Land Commissioner of Michigan carries his precious treasure to another State, laboriously prepares it for mail, deposits it in the postoffice, and returns to his duties to await the explosion. Foiled in his first effort by the vigilance of the public authorities, by himself or by his agents, he returns to the charge a second time, and, unfortunately for his reputation, with success. The evidences of his care to insure the completion of the dastardly crime, are before you.

These envelopes tell their own story. Different in kind, and

directed apparently by two, and not more than three, hands. Blank paper on the inside of some of them, to conceal their contents from prying eyes,—no more open envelopes, such as had once betrayed him.

Shame on the man who would do such a deed. Treble shame on him who, holding the high position of the respondent, would stoop to an act so vile.

I will not anticipate the defense which the counsel may make to the charge contained in the Eighth Article.

It is said in the answer, or was remarked by one of the Commissioner's counsel, that there is no allegation in the article that he had knowledge of the character of the paper. No, there is none, nor is it anywhere alleged that he is accountable for his own acts.

Under Article Nine, we charge a violation of a statute of the United States, as follows—2 Brightley's Digest, 366, Art. 23:

"No obscene book, pamphlet, picture, print, or other publication of a vulgar and indecent character, shall be admitted into the mails of the United States. Any person or persons who shall deposit, or cause to be deposited, in any postoffice or branch postoffice of the United States, for mailing or for delivery, an obscene book, pamphlet, picture, print, or other publication, knowing the same to be of a vulgar and indecent character shall be deemed guilty of a misdemeanor; and, being duly convicted thereof, shall, for every such offense, be fined not more than five hundred dollars, or imprisoned not more than one year, or both, according to the circumstances and aggravations of the offense."

If the paper in question was of an obscene character, then the mailing of it at Laporte and Toledo for the purpose of circulation was a plain breach of the statute just cited. Even if there were a definite meaning of the term "obscene publication," and this paper did not come within it, still the defendant is guilty if the paper is of an indecent or vulgar character.

It is hardly possible to argue as to the character of the Commissioner's literary production, for the question is one which appeals to the consciences of men, and which every man must decide for himself. We may say, in this connection, that the Commissioner stands here self-convicted as to the character of this paper. It appears from the evidence, that he travels under an assumed name. The papers, his property, were seized by the United States authorities, and for aught we know, and for aught that appears in evidence, that property is in Washington. There has been no evidence introduced to show that he has ever made a demand for it, or that he has ever made any attempt to recover it.

Now, if it was not the opinion of the Commissioner himself that the mailing of this paper was a violation of the law of the State, as well as a violation of the law of the United States, it is extremely improbable that he would have waited all this time and made no attempt to recover the production.

It may be said that you are bound to wait, until a proceeding has been had in the United States Court, before you shall convict the Commissioner under the charge of mailing these papers. We shall submit, and we shall insist, that in reference to this matter you are to do for yourselves. It would make no difference whatever, if the Commissioner had actually been tried and had been acquitted in a Court of the United States. It will be for you to determine whether this was an indecent publication, whether it was of a vulgar character, whether it was an obscene print; and if you should come to the conclusion that such was the character of the paper, it would be your duty to convict him, although he may have been acquitted of the same crime in some other court.

We admit that we have failed to produce positive evidence against the respondent, so as to bring him within the scope of the law referred to in Article X.

Under the Eleventh Article we have brought forward what evidence we have been able. The unexplained absence of an important witness upon the charge of adultery compels us to

leave this branch of our case far weaker than we expected. Yet three distinct facts are shown, to which we call the attention of the Senate:

First. The appearance of the sheets are shown, to which we call the attention of the Senate. The counsel for the respondent said they would wash that sheet as white as snow. They have attempted to do so. They introduced testimony to show that upon a certain occasion the Commissioner, owing to a disease which the physician has explained to you, was placed in a similar situation; but they failed, it seemed to me, to ask one important question, and that was whether a person could be placed in that situation, and continue in sleep. It is evident that during the night that this occurrence took place at the Lansing House, the Commissioner must have remained the entire time in bed, and in all probability was asleep;

Second. The occurrence related by Baker and Bosworth;

Third. The occurrence referred to by Cole.

I think it will be regarded that the excuse which was offered by the respondent in this case, was somewhat thin and gauzy. Clarke testifies that they both happened to rise early; that they both happened to want to go to the springs; that they both did go toward the springs; but, arriving on this side of the river, found the boat upon the other side. Now, if it was the intention of the Commissioner to go to the springs, and he traveled the ordinary road, he must have certainly seen before he arrived half way to the shore that the boat was on the other side of the river; and yet we find that he traveled entirely to the river.

It was promised on the part of the defense that they would produce the man that rapped on the window of Alice McCabe's house, and called the Commissioner in. That man has not been forthcoming. That was the entire testimony in regard to the Commissioner's conduct on that morning. His going to the springs rests entirely upon the evidence of Clarke.

We have charged the Commissioner, in a former article, with

the employment and appointment of dissolute clerks for purposes of gain. The fact that these clerks are dissolute is beyond dispute. For what purpose he employed them, he best knows.

If it is not for purposes of gain, it is impossible to show what were his reasons. But I say the fact that they are dissolute clerks, that they are disreputable clerks, that their personal habits are such as to render them sources of suspicion, and to render their conduct suspicious, is something about which there can be no dispute.

In reference to the personal habits of these clerks, we have but two or three instances fully proven, where it is undoubted that the Commissiner had knowledge of them. Van Dunham certainly admits that he is a man given to the use of intoxicating drinks. But there are but two cases where the knowledge of the habits of these clerks is directly brought to the notice of the Commissioner. One is in the Lansing House, and the other in the Chapman House.

Now, it is said by Baker, in his testimony, that at the scene in the Chapman House the Commissioner himself was in a state of intoxication. On the other hand, the defense have attempted to prove and show that Baker was entirely mistaken, or, to speak more harshly, that he perjured himself; because the story which Baker told and the story told by Straub cannot be made to correspond, and one or the other must have committed downright perjury. We shall leave it to you to say which of these two stories is true. Mr. Straub testifies as to the transaction which took place that night, but you will recollect, upon the close of his examination, when he was asked if he had made any statement of the facts to which he testified, he said positively he had not; when asked by whom he had been subpœnæd, he said he did not know; when still further inquired of as to any statements of the facts related by him which he had made after the service of the subpœna upon him, he denied that he had made any such statements. Straub's testimony was annihilated by that assertion. There

is no man who can place any belief in his stories,—in anything he said.

The defense here has not been conducted without a full and careful examination of the witnesses, before they were brought before you. This was apparent even in Straub's case. His testimony was wholly given in response to direct questions. Neither the counsel nor the witness traveled out of paths previously marked out.

Poor Griswold was called upon to corroborate his testimony. Griswold stands before you as a man whose integrity may be well doubted. He himself was in a state of gross intoxication. It appears plainly, from subsequent observations, that his testimony must be received with a great deal of suspicion.

Beside the facts to which I have already called the attention of the Senate, there are other transactions conclusively proven showing the total demoralization of the entire department. Barnard is shown to have dealt extensively in lands reserved on contracts, either with or without the consent of the contractors. Griswold, Clarke, and Van Dunham have had dealings of the same character.

The Deputy is a seller of information,—many of his subordinates deal in the same commodity. Several of the clerks have admitted that they act as agents of land-dealers, some at stipulated salaries and others for occasional fees. Every one of the clerks whom we have called, with the exception of one Gillam, confesses to the reception of gratuities; showing a system of forced contributions as well understood and as thoroughly organized as that which prevails among the servants at a first-class hotel. And even the immaculate Barnard, who was appointed to supplant the dishonest Porter, charged with embezzling $16, is not ashamed to receive $5 in return for a certificate of land to one dealer, which had, through the system of transacting business, been virtually refused to another.

I wish in this case to call the attention of the Senate to a proceeding which has lately taken place in New York, in which the Insurance Commissioner was the respondent.

Charges of precisely the same character were made there as have been made here, and from the report of the Legislative Committee, which I hold in my hand, it appeared:

Third. That he has allowed clerks in the department, who are paid regular salaries by the State, to charge and receive illegal and excessive fees for making special and other examinations.

Fourth. That he has appointed commissioners to make examinations, who have received large and excessive fees, entailing great expense upon the companies.

Fifth. That the department has been so managed, that many of the companies have believed it necessary to employ brokers and attorneys, who were known to be on intimate terms and favorites with the Superindendent, to obtain examinations and protect the interests of their companies, and the payments of large sums for their personal influence in that behalf.

As I understand,—though I do not have it before me now,—the Legislature of New York passed a resolution of impeachment against the Commissioner, the trial of which he avoided by resignation. But it will be seen from what I have read, that the charges made against him are precisely of the same character as those made in our articles. The mere fact that these so-called gratuities are received from parties voluntarily, is no excuse. The law provides a salary of $1,000 a year, "and the clerks shall receive no fees or perquisites whatever."

But, as I have already stated, it is plain, from the evidence that has been introduced in this case, that it is a well understood rule of that office that the man who pays receives the benefits; and the man who does not pay can obtain only such advantages from that office as the subordinates may be willing to give him without trouble to themselves. Plats for which the law requires fees to be paid are distributed among the favored ones without money and without price. Lands are reserved upon checks, the payment of which is not demanded until months after. The doors of fraud are thrown

wide open, if not actually entered, by means of some Bathay contract and a "general order."

If these things are true, and they are, beyond a doubt, for the evidence of them has been wrested from the unwilling witnesses, who are the subordinates of the Commissioner, what must be the condition of that most important department of our State government? What might we not expect if we could but obtain the entire truth?

And shall the Commissioner excuse himself on the ground of ignorance? Ignorance of these facts is culpable negligence, —it is misconduct in office. The State demands that he should be held accountable for the conduct of his clerks. It gives to him the selection of his clerks and an entire control over them. He is bound to exercise a vigilance and a supervision which must speedily detect the irregularities—to call them by their mildest names—which prevail in his department. He cannot shake off this responsibility. It attaches to his office, and he can only avoid the one when he ceases to hold the other. [City of Richmond *v.* Webbs Admr's, 17 Gratt. 366; Commonwealth *v.* Rhodes, 6 B. Monroe, 174, 176.]

This trial has developed the truth of one of two things, either that the Commissioner is incompetent or that he is corrupt.

Improvements in the method of transacting business in the office have nothing to do with the decision you are to render. We charge the respondent with irregularities and misdemeanors in office, and with crimes. Upon these you are to decide,—not upon the question whether former defects in the management of this department have been remedied. This may be true, and our accusation equally true. The guilt or the innocence of the respondent upon the articles preferred is the sole question before you.

Mr. McGowan, on behalf of the respondent, addressed the Senate as follows:

MR. PRESIDENT AND SENATORS—In the division of labor in this case between my colleague and myself, it has fallen to my lot to look more especially after the facts; and very naturally, in the argument, have only prepared myself to talk in regard to the facts involved, and the law more immediately concerning them.

We had certainly anticipated that the whole case would be opened to the Senate before we were called upon to say anything; and not only all that was claimed under the law, but all that was claimed under the evidence, would be fully and fairly stated to the Court. May be I am wrong, but it seems to me now that I am almost compelled to open the case on the facts on the part of the defendant, to argue a negative, and if some of my positions seem somewhat awkward, it may be to some extent excused for that reason.

It is now nearly two months since there was presented to the House of Representatives a petition, signed by some twenty-seven citizens of Lansing, asking that this respondent be removed from office on account of drunkenness. Immediately on the presentation of the petition, you will remember, a committee was appointed to examine into the conduct of this officer in that regard, and to report to the House, if they found sufficient reason to do so, the articles of impeachment and specifications thereunder. Some five days after the presentation of that petition, there was reported to the House by the committee, a short resolution of impeachment and a general report, charging the respondent with all the crimes known in the calendar, and many that were not known in the calendar. Then followed the preliminary steps of this trial. The evidence presented before that committee, which was taken, doubtless, in a very hurried manner, was read before the House of Representatives, in the presence of reporters, and has been circulated throughout the State.

From that time to this, Honorable Senators, the respondent has been forced to silence: but his silence should not be construed into indifference. That some of these accusations that were contained in that report, and afterwards embodied in the Articles of Impeachment, were unqualifiedly false we all now acknowledge, and some that went directly to the personal and moral character of this respondent. That he should have remained, during those two months, entirely indifferent to charges that so nearly and dearly affected him, would be to give him a character of something, I should say, almost more than human. On the day when the respondent was arraigned here at the bar of the Senate, it will be remembered, we asked for time to prepare the defense; and my brother Shipman, in making some remarks in support of the motion, mentioned that the Senate would not strike down an unarmed man. The word was misunderstood, and fears were expressed that the empty sleeve that dangles by the side of the Commissioner, would haunt this case during every step of its progress. I allude to that fact now, to say to the Senate, we rest our case now, as we rested it then, wholly and solely upon its merits. We ask no sympathy, we ask no consideration for past suffering or past services; we ask simply, in presenting the case to the Senate, that it be judged upon its merits, and upon its merits alone. Did we feel that our cause was at all weak, that our claim upon the Senate to a favorable judgment was not, in and of itself, a strong claim, then we might appeal to the sympathy of the Senate; then we might ask you to remember the former services of this respondent and his former suffering. But in the thorough examination of this case for the last four weeks, we find no such motive, and we shall make no such appeal.

The Land Office in the State of Michigan was first opened in 1843. For nine months it was a bureau in the office of the Auditor General. January 1st, 1844, it became an independent office and was located at Marshall. During 1850, for two months it was wholly abolished. During the time of

its establishment there have been nine Commissioners, seven of whom have served since the office was removed to Lansing. Of these seven, but one, so far as I can ascertain, with the exception of the respondent, has given his time and attention to the affairs of the office, and that one was Cyrus Hewitt. They all had business away from here,—professional or otherwise. They were simply figure-heads. The office was run by Deputies or irresponsible clerks.

As I said, in opening this case on the part of the respondent, it can be no cause for wonder, that under this state of things, abuses should grow up in the office, that they should become crystalized into precedents that would be hard to break up, and when the Commissioner came here with the honest intention to do his duty as he saw it under the law, that there would be some confusion,—that there would be some clashing of interest. Men who were acting as real-estate agents, and had formed relations with that office which were decidedly beneficial to themselves, would let go their hold with great reluctance; men who were building roads and digging ditches through the northern part of the State, and had large contracts on which they were allowed to reserve and re-reserve, and drop land back into the market, would be compelled to give up the privilege with reluctance. Men who were allowed to go into that office and upon their own affidavit oust the homesteader and secure the little forty or eighty acres of land which he had previously held, would very reluctantly give up that privilege. Men who were in the office and had grown suddenly rich, for some reason or other, who handled public and private moneys for their own private ends, would give up their privileges reluctantly.

It is no matter of wonder, then, that the disagreeable necessity is placed upon us to-day, to stand here and address you.

Had the Commissioner staid at home and let matters go on as they were going; had he allowed these real-estate agents to continue their arangement with the office; had he allowed scrip

to be purchased with the money belonging to the State, and to individuals, and speculations of that kind, to have gone on in the office; had he allowed illegal affidavits of abandonment to have been used there, and homesteaders deliberately to violate the law with regard to these three months' proof; had he allowed all these abuses to remain exactly as he found them, I dare say that you will agree with me, that neither you nor I would have been in this Senate chamber to-day, to have heard what is now being said. With this view of the case, then, we propose to go directly to the facts as they appear in evidence before you, conceiving it to be, notwithstanding what has been said by the Managers, that the only question is, whether the respondent is guilty or not guilty under the charges which are preferred against him; and we call your attention, then, directly to Article I.

He is charged in this article with withholding lands for certain land-dealers, and for pecuniary consideration to himself and his clerks. The first witness which touches the charge under this article, is E. H. Porter. On a cross-examination of him it was elicited, that a firm in this city, by the name of Jones & Porter, had reserved lands to themselves, where they had no credit, as far back as 1869. At a public sale, these lands were marked up to them, and those marks were upon the books of the office when Porter went out. There is no evidence that the Commissioner knew anything of this fact. The marks were made long before he came into office; they were made upon books that the Deputy had full control of, and, as he admits himself, were made entirely by himself, or by his direction.

The next testimony that at all touches this article is that made by Allison, relating to the Allison-Hewitt-Thomas purchase. Before I proceed to comment upon that, I call your attention to the law governing that class of cases, where it is charged upon us that we have withheld lands from the market on quarter payments upon a check. I hold in my hand the Land Office laws, as compiled by Mr. Edmonds' predecessor

in 1870, and read from page 12, Sec. 2, which is 2445 of the Compiled Laws of 1857:

"The terms of payment on the sale of University and school lands shall be twenty-five per centum of the purchase money, to be paid at the time of the purchase, the balance of the principal at any time thereafter, at the option of the purchaser, with interest at the rate of seven per cent per annum on the unpaid balance, payable on the first day of March or within sixty days thereafter, in each and every year, at such place or places as shall be specified in the certificate of purchase."

On page 15, Sec. 7, which is 2480 of the Compiled Laws, it reads as follows:

"The said Commissioner shall, whenever it satisfactorily appears that the chief value of any parcel of land consists of pine or other timber, and that in his opinion the interest of the State will not be secured by a compliance with the terms of payment prescribed in the second section of this act, require of the purchaser fifty per centum of the purchase money to be paid at the time of the purchase, and such security for the payment of the balance of the principal, at any time thereafter as in his judgment will secure the respective funds against loss, or he may, in his discretion, require full payment for the same."

I also ask your attention to the 19th Michigan Report, page 470. The case is that of the People ex. rel. John S. Estabrook *vs.* Benjamin D. Pritchard, Commissioner of the State Land Office.

I will not detain you by reading the whole case, but will simply read the head-note, which is as follows:

"Practice in the Supreme Court: Hearing in mandamus cases: Effect of return. An applicant for a mandamus, bringing the case to argument upon the respondent's return to the order to show cause, is entitled to the benefit of all the admissions it contains; but he cannot insist upon facts alleged in the petition or the accompanying affidavits, which are not admitted.

"State Land Office: Verbal regulations for the purchase of Land: Payments for drafts received as money by the Commissioner: Who may object. A person applying at the office of the Commissioner of the State Land Office to purchase primary school land, the price of which was four dollars an acre, on account of which, at the time of such application, he paid two dollars an acre, but was told that he could not have a certificate or patent until the full price was paid, has no right to rely on the verbal assurance of the clerk with whom he transacted the business, that his payment would secure to him the lands if, on notice, he should secure or pay the balance.

"When two persons are contending for priority as applicants for the purchase of primary school lands at the office of the Commissioner, one has no right to object that the payment made by the other was in a draft on New York, it having been received by the Commissioner as money, and it not appearing that it was of less value than currency."

The facts in that Estabrook case, as contained in the report, are something like these: Estabrook made application for some 600 acres of land, and paid $2 an acre, of one-half the purchase money, down,—$1,200. Afterwards a man by the name of Hill made application for the same lands. The Commissioner notified Estabrook that he must select or elect what lands he would take as payment for the money he had deposited, the $1,200,—what portion of the 600 acres. Estabrook declined to make such selection and offered to pay the whole amount,—to pay the balance of the purchase money. The Commissioner forced him to make the election without prejudice to the balance of it, and he elected to take a certain portion of the land, 300 acres of it, and it was patented up to him. The balance, the other 300 acres, stood as claimed by the original applicant, and by the man Hill, who made the application while Estabrook's application was pending; but Hill made his application by depositing a draft on New York. You see what the decision of the Supreme Court was in

regard to that. The Court held that the Commissioner did right in making Estabrook make his selection, and also that he was authorized to take a draft upon New York, or any check or deposit, which he considered as money to himself, and that he took at his own risk.

Now, in view of that, let us make a little examination of this Allison and Hewitt case.

On the sixth day of July, 1871, an application was made by Hewitt on quarter payment for five "forties" of land. That is the testimony. On the second day of October, Allison wrote here to the office to know if the land on that section was vacant, and was answered promptly that only a part of it was vacant. Two days later than that, Mr. Allison came here to the office, and made a personal application for the land that *was* vacant, and at that time had patented up to him some 240 acres of land on that same section, other than the land that was applied for by Mr. Hewitt.

When he went away that time, he left some $300 or $400 deposited with the Commissioner, with the verbal application for the lands that were held by Hewitt. The amount of money left was not sufficient to pay for the land. There was more than enough to pay the quarter payment, but not enough for full payment. When the patents for the land, which he bought on the 4th of October, were made out to him, this money was returned to him, at his own request, and Hewitt still held the land on the quarter payment, upon his check or draft. Now, it was not until April 30th,—until after the commencement of these proceedings,—that any formal application was made to the Commissioner for those lands, on the part of Mr. Allison. It was then made by his agent, Mr. Bush, and only for one "forty." On that application, it is in evidence before you, that the Commissioner notified Mr. Hewitt that he must make his selection of what lands he would take in payment of the amount represented by his check, then on deposit with him. That Mr. Hewitt then and there selected a certain "forty" of the five "forties." The only one that was

applied for by Allison, he selected, and it was patented up to him. The other four "forties" he then applied for on quarter payment, under this section of the law which I have read, and filed an affidavit that they were not chiefly valuable for timber, and had the necessary certificate of purchase issued to him, and thus the matter stands to-day. No other application was ever made. Now, that is the whole of the Allison-Hewitt-Thomas controversy, and you have it in view of the law which is now before you. There is another point in the evidence that should probably be considered under this article, and that is the case of Philip Kershner. The land in question is the N. E. of the N. E., and the S. ½ of the N. E., of Sec. 35, town 35 N., range 1 E., namely, 120 acres. You will remember how positively Mr. Kershner swore, upon the witness stand, with regard to his application for that 120 acres of land. He said that he had a man by the name of Theodore Day, who was an employe in the U. S. Land Office at Detroit, write to the Commissioner here for the two pieces of land, the 80 and the 40; that almost immediately he got a response that the 80 had been sold to a man by the name of Frost, but the 40 was vacant, and he could have it; that Mr. Day then sent back the necessary funds, and the 40 was purchased. He then made inquiries of Mr. Frost, who looked over his books and accounts, and could not find that he had any such land; he never had entered it, and never had purchased it; that he then made some other examination, in other offices, of plats, and ascertained that the land was vacant. He claims that he then went to Mr. David Preston, of the firm of "David Preston and Co.," and applied for this other 80 through them, and that immediately he got the 80. The inference was, and the proof, if it means anything, meant this, that Mr. Kershner, being unknown, not being a large dealer in the office, when he applied, this 80 being valuable probably to the Commissioner, or to somebody else in the office, that they, for a corrupt purpose, withheld it, and let him have only the 40. But the facts on the defense show this state of things: That although

Mr. Kershner testified very positively, yet he was *very positively mistaken;* that Mr. Theodore Day never wrote to the office for the 80 spoken of by Mr. Kershner. His entire letter is in evidence and is on the files, and you will find it on page 518 of the Impeachment Proceedings. That first letter, in which he writes for the N. E. of the N. E. of that section and town, says nothing about the 80 acres. Feb. 7th he wrote again, and sent the scrip for the purchase of the 40, but said nothing about the 80,—not a word; yet Mr. Kershner sat there and swore positively that he saw the answer to that first letter and read it, and that the Deputy or somebody in the office wrote positively that the 80 had been sold, and sold to Frost. He even went so far as to fix the date when it was sold,—November 19th, or thereabouts; he remembered the man's name, he had read the letter over five or six times, he could not be mistaken. You will remember with what tenacity he adhered to his first statement on the cross-examination: He had read it, he had had it in his hand, he knew it to be so. There is the letter-book; there are the letters with the dates; there is Theodore Day's signature, and there is not an iota of truth in that whole statement. On page 519 you will find David Preston's letter in which he writes for the 80, and it was patented up to him because it was vacant. You have heard the statement of Mr. Robinson that he had examined the records of the office, and that there was nothing in the records, on the books, or among the files anywhere to show that Mr. Frost's name was ever connected with that 80 acres of land. You can come to no other conclusion than that this man Kershner was either grossly mistaken or that he is willfully corrupt. Either horn of the dilemma you can have.

Another point of evidence, which, probably, the Managers will claim as properly under this section, is that of Cyrus Hewitt. We have been somewhat in doubt—it has been somewhat of a mystery to us—how the Commissioner could be charged with the corruptions of former Commissioners. It was

said by one of the Honorable Managers, when this evidence was presented, that he hoped to connect it with this Commissioner; that he hoped, by some mysterious way which he did not see fit to announce,—"for fear that it would be switched off the track," to use his own language,—that, in some mysterious way, the purchase of that 2,000 acres of land which Hewitt held upon a certificate for a certain length of time, and which was canceled long before this man came into office; that, in some way, he would bring that knowledge home to this respondent. If the Senate can find, in any way, that he did bring it home to this respondent, then that testimony will properly come under this article; then will Mr. Edmonds be properly charged with withholding lands for the benefit of large dealers, and afterwards throwing them back on the market by getting the certificate canceled. We have been unable to find, that in the slightest degree it has been brought home to this respondent, or if there has been anything in this transaction that shows the respondent knew anything about it. In fact, the whole thing was done before he came into office. The reservation was made, the land was sold to Hewitt upon the certificate, the cancelation was made, and the land put back upon the market, long before this Commissioner's time. And, right in this connection, I desire to call the attention of the Senate to a portion of the evidence of General Humphrey. It will be remembered that he stated to you, that sometime during 1868 or 1869 it became necessary for the Board of Control to cancel a whole batch of old contracts, where the lands had not been patented up upon them, and where undoubtedly the land had been reserved to the full amount of the contract. In fact the witness himself knew that three contracts had been full, and the cancelation of the contracts carried with it the cancelation of the reserves. At the time of the cancelation there were nearly 39 of those contracts canceled, and the witness stated that there may have been many more which he could have found, if he had turned over his book, but as far as he had gone there were 39, on not one of which had the land been

patented. Undoubtedly every one was reserved in full. That was in 1868, or 1869. There can be no doubt but thousands of marks were left upon the books and plats of the office, by this action of the Board. Many of them are probably there yet. It is an immense work to ferret them all out, to distinguish them from the legitimate reservations, and erase them from the records.

That there are marks of reservation upon those books that are not explainable, has been stated by Robinson, who has examined them, and who is the chief clerk. He knows not how they came to be on the book. Are we to be charged with corruption because these men who made their contracts and reservations in 1868 and 1869 failed to perform their contracts, —because those marks are upon the books? Has it been for personal gain that we have allowed those marks to remain? On the contrary, is it not in evidence that this Commissioner has been most diligent in his efforts to remove them from the books. There are still marks there that have been there for years, which are not explained, and which the Commissioner does not feel at liberty to remove, as yet, for there may be some equities behind them.

So much for Article I.

Article II charges us with having engaged, directly or indirectly, in the purchase of State lands; first, the Commissioner, by himself, and secondly, by his Deputy and clerks. The law of 1861, prohibiting officers and the clerks from dealing in State lands, has been read to you to-day.

Now, the first evidence that the Court heard under that article was from this same Porter, the former Deputy. It was with reference to the piece of land in Monroe county. He said Edmonds paid for it. That is the evidence that the Commissioner has purchased lands himself. That is all the evidence,—the only case. He says he applied for it, and applied but for one piece and paid but for one piece. He thinks it was in Monroe county,—it may have been in Branch; and, upon cross-examination, it may have been in Manistee county; but

we have fixed it that he applied for but one piece during this man Porter's occupancy of the office; and we have brought the old farmer, Mr. Joseph, and he has sworn that through the Commissioner he purchased one piece, and not only purchased it through the Commissioner, but the Commissioner advanced the money to pay for it. Is it possible for this Court to wring out of that testimony any corruption on the part of this Commissioner? Is not the transaction straightforward and equitable? Does it not go to his credit, rather than against him, that he accommodated this man, and advanced his money, and refused to take a dime for compensation? So much, then, for Porter.

Now as to the clerks violating this article. They are also charged with the same thing under Article VI., and I will leave the further discussion of that to the time that I shall spend upon that article.

The next is Article III. That we may have a full understanding of what we are talking about, I ask permission to read this article again, that it may be before the Court while I am talking about it.

"ARTICLE III.

"That said Charles A. Edmonds, Commissioner of said State Land Office, unmindful of the duties of his office, and his oath of office, having knowledge that large numbers of actual settlers to whom license had been issued in pursuance of act No. 108, Session Laws of 1861, being an act entitled 'An act to amend an act entitled An act to provide for the settlement and drainage of the swamp lands by actual settlers, being act No. 229, laws of 1859,' were in possession of their lands under their said licenses, and had been in possession thereof for a long time, and made valuable improvements thereon, and complied with the laws of this State in regard to licensing lands to actual settlers fully, except filing with the Commissioner of the Land Office the proofs of settlement and occupancy, required by section four of said act No. 108, laws

of 1861, and he, the said Edmonds, being acquainted with the practice in said office ever since the passage of said act No. 108, laws of 1861, to withhold from sale such licensed lands, except in cases where proofs by the affidavit of two credible witnesses was filed, showing non-settlement and abandonment by the licensee, did corruptly, and for the purpose of pecuniary gain to himself, his Deputy and clerks, about the month of October, 1871, decide that such lands were subject to sale without such proof of non-settlement or abandonment, as had been the practice of said office, and he, the said Charles A. Edmonds, did then and there, by himself, his Deputy, and clerks, corruptly, and for the purpose of securing gain as aforesaid, furnish to divers persons the description of such licensed lands, when the proofs of settlement and occupancy had not been filed in accordance with said section four aforesaid, which said persons purchased said lands, and to whom said Commissioner issued patents, whereby a gross fraud was practiced upon such actual settlers, and large profits and gains made, in which said Edmonds, his Deputy, and clerks were interested.

"And said Edmonds, being so unmindful of his duty and oath of office, and the policy of the State to protect the actual settlers, has corruptly furnished and permitted his Deputy and clerks corruptly to furnish such descriptions of licensed lands to divers persons, on divers days and times, since the decision aforesaid, and before the passage of the resolution of impeachment by the House of Representatives, which said persons purchased said descriptions, to whom patents were issued by said Commissioner, he, said Commissioner, his Deputy, and clerks being indirectly interested therein.

"And the said Charles A. Edmonds, Commissioner of the State Land Office, was thus, then and there guilty of corrupt conduct in office, and did commit a misdemeanor in office."

It seems to me, that a fair analysis of that article is about this,—as derived from the article itself: That the law of 1861, referred to in the article, provided that parties holding lands

on license must within three months file proofs with the Commissioner, that they are in actual possession and occupancy.

Second. These provisions of the law the settlers, in large numbers, deliberately violated.

Third. The same law required that when the proofs of possession were not filed, then the Commissioner should sell said lands, the same as other swamp lands.

Fourth. This provision of the law the former Commissioner had knowingly and deliberately violated.

Therefore, Commissioner Edmonds, well knowing the practice of the settlers in violating this law, and well knowing the practice of the former Commissioner, in violating this law, did corruptly and wickedly, and for the purpose of pecuniary gain, to himself and his clerks, decide that the law should be obeyed, whereby he was guilty of corrupt conduct in office and ought to be impeached.

Before we proceed to discuss this article any further, I ask to read to the Court a manuscript decision of the Supreme Court of this State which was delivered within the last year, and is not in the printed report. I have the certificate of the State Reporter attached, that it is a true and correct report of the decision:

IN THE SUPREME COURT.

LOUIS REMEAN, *Complainant,*

vs.

THOMAS MILLS AND HENRY N. SMITH, *Defendants.*

This is an appeal from a decree allowing a demurrer and dismissing the bill.

The complainant claims that in 1862 he became a settler on a parcel of swamp land under the acts of 1859 and 1861 (Session Laws 1859, p. 862; L. 1861, p. 145), and that subsequently the land was sold by the State, in contravention of his rights as settler, to Smith, who, shortly after, conveyed to Mills, both having notice of his claim; and that Mills has brought ejectment against him, which he asks to have

restrained. He also represents that after his license was obtained, and before the sale to Smith, he was informed that he had been drafted to serve in the army, and supposing, notwithstanding he was an alien and had never voted that he was subject to the draft, he fled to Canada to avoid the service, leaving his family and brother-in-law to look after and protect his rights. He further represents that after the commencement of the ejectment suit he obtained a deed of the land from the Governor, who was "duly authorized" to give it.

The objections to the bill are numerous. It is not only defective for want of material matter, but it is likewise defective for want of fullness, clearness, and directness of statement, in respect to the matter it shadows forth. The law requires the settler, as a *condition upon which his right depends, to perform certain acts, and refrain from others, and in case of disobedience avoids his claim, and authorizes the Commissioner of the Land Office to sell the land as other swamp lands are sold.* It was necessary, in any admissible view of the case, for the complainant to show in his bill, by *statements of what he had done and abstained from doing, that he had substantially complied with the requirements of the statutes under which he claims, the State having the right to prescribe the terms upon which it would allow settlement, and having prescribed the terms.* This bill, however, contains no statement of *such facts, nor does it show, even in a general way, that the provisions of the law have been observed. No details are given, or conclusions even, having a legal tendency to show that complainant kept his claim good or saved it from becoming void.* On the contrary, he avows that he fled from the country, and by so much furnishes evidence of failure to abide by the condition of his license, and also of an actual abandonment of his claim. Nothing is stated to indicate the nature of the deed from the Governor to complainant. Unless it was given pursuant to some law, it is valueless, and the bill gives no information on the subject. In the absence of something to explain the ground and nature of this deed, the circumstance that it was

made and delivered can have no force to prop up the bill. The faults in this pleading are so obvious and serious, that we suspect the bill must have been resorted to as a "forlorn hope." We do not think it needful to examine it more in detail, or to point out its objectionable features with greater particularity.

The decree below was correct and should be affirmed with costs.

B. F. GRAVES,
I. P. CHRISTIANCY,
J. V. CAMPBELL,
T. M. COOLEY.

A true and perfect copy.
HOYT POST,
State Reporter.

The bill was finally dismissed upon other points than those which we claim here; but the law under which the Commissioner has acted in this case, with reference to the three months' proof of these settlers, is distinctly referred to in the decision, as a law binding upon the settlers. The court held that the State has a right to prescribe terms under which these settlers should go into the occupancy and possession of their land, and it is also distinctly held, that if they violate those terms, the contract between them and the State is void, and the Commissioner shall put the land upon the market again, and it shall be sold. The law referred to, will be found on page 81 of the Land Commissioner's laws, section 4, Laws of 1861:

"SEC. 4. And it is further provided, that the license for settlement, granted under this act, shall contain a clause which shall expressly provide that the settler or occupant shall, within three months after the date of said license, file, with the Commissioner of the State Land Office, a certificate from the supervisor of the township in which the land is located, together with the affidavit of such settler, that he is in the actual possession and occupancy of such land; and said license shall also contain a clause providing that the settler or occupant shall not be authorized to cut, take, and carry away any pine, oak, or other valuable timber, unless it be to clear the

land for cultivation, and then only as much as may be necessary to improve the same; and for a violation of the aforesaid condition, he or they shall be liable to all the forfeitures, penalties, and liabilities of a trespasser upon State lands, as now is or may hereafter be provided by law; and it is further provided, that if such settler shall not file his certificate and oath of settlement, and occupancy, as above provided, or if evidence of two witnesses, under oath, is furnished to the Commissioner of the State Land Office, that the clause above mentioned, to prevent waste of said land, has been violated, then his claim shall be deemed as void, and the Commissioner of the Land Office shall, from and after said time, sell said lands the same as other swamp lands, and this provision shall be inserted in the license for said lands."

Now what we claim under this section, and our defense to the charges in this article, is simply this: That we executed the law as we understood it, not only from the literal construction of the law itself, but from the construction given it by the Supreme Court, which I have read.

But this is not the whole charge contained in this article. It further states that we made the decision for corrupt purposes and for gain.

I ask the Senate to look over the testimony in this case, referring to that article. Two or three cases have been presented, where men who had gone upon lands, holding them under license, had had them sold away for want of filing this three months' proof. If they had failed to comply with the law, their lands were put in the market and sold. We admitted, in the answer in this case, that we had so decided with reference to that law. We denied then, and we deny now, that that decision was made for any corrupt purposes. We claim, that whatever information was obtained in the office, and sent out to these land-sharks who purchased the settlers' land, was entirely unknown to the Commissioner. There could be no possible object in bringing those men here, and presenting them

before the Court, that we are able to divine, unless it is to stir up sympathy; and the story which they told did stir up the sympathy of every man who listened to it; but it failed to fasten the corruption upon this respondent.

On the contrary, the testimony of Mr. Cummings, the treasurer of Shiawassee county, as you will remember, shows that the Commissioner was willing, so far as he could, to protect these settlers; that he was entirely willing to assist in getting this land back for the man Bouck; that he voluntarily went to Cornell, and asked him to do it. It further appears in evidence that he went so far himself as to see Mr. Cornell,—and, mark you, that was long before there were any threats of impeachment even; and, in the conversation about that Bouck land, he said that had he known there was a settler upon that land, he never would have allowed him the certificate which he got from the office. There is not one of these cases that has been brought home to the knowledge of the Commissioner, be they as bad as they may. He had no knowledge of them whatever until they were accomplished. The only charge that can be brought against him, then, in answer, is, that he should have known these things were done by his clerks in the office; and, in answer to that, I say, the records would not show it; and if the clerks did not tell of it, he could not know it.

We have had some book, or decision, or paper read here to-day, showing that an officer of this character must know what appears on the books of his office. Admit it,—admit that this respondent is bound to know what appears there. If he did know, there is no scrap, no record, there is not an entry in that whole office that shows anything irregular in any of those transactions in regard to these settlers,—not a word. The Managers have had full sweep of that office; they have searched the records from beginning to end, to see if they might not bring to this respondent the knowledge that his employes were taking advantage of this decision and wronging the settlers, but they have searched in vain.

The books in the Treasurer's office correspond with the books in the Land Office, and show these transactions entirely regular. Had he examined every iota, everything shows that the transaction was strictly legitimate, so far as the record is concerned. We make no apologies for this sort of thing, but I do say, that had Van Dunham and Clarke—and they are the only men charged with it (except Bush)—been outside of the office, they could have done everything which they did, and they could not have been charged with doing an illegal thing. The fact that they were interested in the purchase of licensed lands, does not make it any more corrupt than if they were dealing in other lands. They had no right to purchase any land, but they had as much right to purchase licensed land, as if it had been any other land properly in the market.

This land was entirely vacant, and had been in the market for years. The statute put it there, and all that they can say is, that the clerks violated the law of 1861, which prohibits them from dealing in land. Had Mr. Hoyt, or any other man, came and claimed the land, and paid for it, the Commissioner could not have withheld it. He could not have withheld it from the purchaser, any more than he could any other land which had never had any mark upon it. Whatever testimony there is in the case, that goes to the knowledge of this defendant, or to his want of knowledge, amounts to this: That he knew nothing about it, and he could have known nothing about it, until after the matter was completed. The fact existed that the land was sold, and it was then brought to his attention by the settlers and their friends, being interested in the case. So much for that.

The Presiding Officer—The Senate, sitting as a Court of Impeachment, will now take a recess until two o'clock.

Tuesday, P. M., May 21, 1872.

The Senate met and was called to order by the President *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

Mr. Manager Grosvenor—Mr. President: Since our adjournment at twelve o'clock, the Managers have been able to obtain the absconding witness. She is at the bar of the Senate. The managers propose to offer her to the Senate as a witness upon the Eleventh Article. The witness's name is Jane Bolton, about whom we have heard so much talk, and who has caused so much delay. I will state that the Managers caused her to be subpœnaed early—some days before the Court convened—and were assured that she would remain here; and on the day prior to the day on which we expected to use her, we found, upon inquiry, that she had gone,—found that she had left the day before. We at once took process of attachment from the Court for contempt, and have had officers on the alert, and only this morning I received a dispatch from a detective in Detroit, saying he had given up and could not find her; and, on going to the hotel I found that she had returned. She is within the bar, and we offer to put her upon the stand, and prove what we may be able to, by her. Having had her testimony once, we know, or have a right to know, what that testimony will be again.

The Presiding Officer—I understand, then, the offer is made to put this witness upon the stand, and have her testify as to the matters charged in the Eleventh Article.

Mr. Manager Grosvenor—The Eleventh Article.

The Presiding Officer—Have counsel for the respondent anything to say?

Mr. Shipman—Mr. President: We object to this proceeding. We object to the opening of the case now, at this stage, when we are in the midst of argument, and letting in any more testimony. The special reason of the objection is, to the time.

It will necessitate our getting witnesses here who are not in town. It will necessitate our getting more than six witnesses here, some of whom are in town and some of whom are not, and are scattered. It will take us some days even to get them here, and will put us in a very awkward position indeed, if she was to be allowed to be sworn now. Had she been offered here in time, we should have been very happy indeed,—we should have preferred to have had her testimony in with the others; but with our witnesses gone, the difficulty of getting them back, the time that it would take to do so, I do not feel inclined to consent, and therefore object to her testimony being offered.

The Presiding Officer—Have the Honorable Managers anything further to say upon the profert?

Mr. Wheeler—I would like to inquire of the respondent's counsel about how long they think it will take to get these witnesses in case this evidence is admitted?

Mr. Manager Grosvenor—Only one word in addition. The testimony of this witness has been before the respondent's counsel from the commencement of this trial. It was taken before the committee of inquiry, and the gentlemen know very well the trouble that the People have been put to to obtain this witness, and the question offered is no surprise upon the respondent, because it has been understood for the last week that whenever we should produce that witness, we should appeal to the discretion of the Court to admit her, but it is only now that we appeal to the discretion of this Court to permit her to be sworn. We have made every effort to obtain her; there have been no *laches* on the part of the People; she is an important and material witness, well known to the Managers, well known to the respondent. The question of whether it will take an hour or two hours more, I think is quite immaterial. I will say, in regard to this witness, that she may be sworn at any time during this trial; they may stop me in the midst of an argument, they may stop any one of the Managers, and put in

their rebutting testimony if they please, and we will agree to submit no testimony,—we will give none in reply, to that. At whatever moment they may bring them in we will stop, and they may present them. We want to treat this matter fairly, and we think the interests of this case demand that she should be heard. However, it is a matter of discretion, and we do not know anything we can say further, than she is a very material witness in this case, and without her testimony we think the Eleventh Article is not well sustained. With her testimony we think it is.

Mr. Shipman—Mr. President, permit me to say one other thing. This order was entered closing the testimony on their part, reserving simply the calling of this witness, at any time before the evidence was closed. We, of course, expected to meet this witness,—any testimony that might be produced. I am informed, by my associate, that it will take nine witnesses, some of whom are not here. It will be a very serious inconvenience to us, to have this testimony introduced at this time; and if there is to be an end of the trial ever, it seems to me that it ought to be considered at an end now, so far as testimony is concerned. If this rule is to be adopted, I do not know when it is going to stop,—how much testimony else they will try to get in. At all events, it will protract the trial so that we cannot get through with it this week. It is not a question of an hour.

The Presiding Officer—This question being one which appeals to the discretion of the Court, the Chair will not assume to exercise that discretion, but will take a vote upon the subject. Senators, the question before you is, Shall the evidence offered by the Honorable Managers be received?

Mr. Jenks—I move that the Senate Chamber be cleared for the purpose of deliberation.

The motion prevailed, and the Senate Chamber was cleared of all persons not officially connected with the Senate.

At twenty minutes past two o'clock the doors were again

opened, and the Managers and counsel for the respondent entered and took their seats.

The Presiding Officer—The Chair will announce to the Honorable Managers and the counsel for the respondent, that upon the proposition submitted to the Court, when the Chamber was closed for the purpose of deliberation, the yeas are 7 and nays 16, so that the testimony will not be admitted at this time. Counsel for the respondent will proceed with his argument.

Mr. McGowan resumed his argument, as follows:

MR. PRESIDENT AND HONORABLE SENATORS—When interrupted by the noon recess, I had just reached the discussion of Article V., in which the respondent is charged with having so engaged in, and carried on, by himself and his Deputy, the purchase and sale of scrip in his office and in his official time, to operate in fraud of, and to the damage of, the primary school fund, of the several counties of this State, and of the Treasury.

The first thing, in all probability, that would strike the reader of this article, is the implied admission, that the scrip trade by the Commissioner and his Deputy might have been carried on so that it would *not* have operated in fraud of the school fund, of the several counties, and of the Treasury. The charge is, that he *so* carried it on, that these funds were defrauded. If it might have been carried on so as not to defraud the school fund, the several counties, and the Treasury, then it might have been entirely legal. I say that is the implied meaning of the article.

It will not be contended, on the part of the Managers, that to deal in scrip is, of itself, *per se*, wrong. If Mr. Edmonds had lived in Detroit or Saginaw, he might have properly engaged in the scrip trade; he might have bought and sold these credits of the State, as other parties have done,—at least, if he had not been Land Commissioner, he might properly have done so. It will not be contended for a minute that David Preston & Co. are doing anything illegal and wrong in dealing in scrip; and most especially is that true in view of

General Humphrey's testimony, in which he told you that the State had received every dollar of compensation for that scrip, before it was issued. As well charge the Commissioner with fraud in dealing in U. S. land warrants, or U. S. bonds, for that matter. Hence, the only essential charge in this article is that *he so engaged in it* as to defraud the school fund.

Now, let me ask this Honorable Senate, how could this Commissioner engage in this trade so as to defraud the school fund? There is but one possible way to do so, and that is to take the moneys sent for lands, and put it to his own account, and make up the purchase with his own scrip, pocketing the balance. That is all that can be claimed here, and that is all that can be wrung out of this Article,—charging him and his Deputy with robbing the school fund. Now, let me ask this Senate to run back over this testimony, and see what there is of that kind.

The first testimony is that of E. H. Porter. You well remember it. On the examination in chief, and afterwards on cross-examination, he reluctantly, as it were, told us that he had an arrangement with this Commissioner, which was substantially the same that he had with the former Commissioner, that they were to buy and sell scrip. He *thinks* he told him, that when money was sent here for the purchase of lands, they use the money and enter up the land with scrip, pocketing the balance. He is not sure he told him so. He does state, on the direct examination, that he does not remember a single case, during the five months while he acted as Deputy, in which any such thing happened,—no recollection of a man sending money here to purchase land, and that money put into an envelope, and the land entered up with scrip. He does not remember such a case; yet, after a day's absence,—or an afternoon's recess,—the witness comes back, and says that he does remember one or two cases, and on sifting him, on the cross-examination, he remembers one case, a case up north, with which Mr. Swineford was connected. The Commissioner thereupon went to the office and

got the files, and we presented them to him, and he was compelled to admit that it was back of the time of this Commissioner; so that there is not a single case brought within Mr. Edmonds' time where lands were purchased by scrip when money was sent. Whatever he may have first stated, was entirely upset by what he stated afterwards. You will find his testimony on page 107, and this will show the prevarication and the utter unworthiness of the man, that he should come here and attempt to convict the Commissioner for things of which he alone was the guilty party. Let me read:

"Q. What did you tell him had been your practice in buying lands where parties came to the office, that had not anything but scrip?

A. I told him about the practice of the office, that where money came in we used it the same as when parties came to buy scrip.

Q. Suppose you received one hundred dollars for eighty acres of swamp land, at ten shillings an acre; some one sends you $100 by mail, what do you do with that one hundred dollars?

A. Deposit it to the scrip account and pay scrip for it.

Q. Do you pay the money into the Treasury?

A. No, sir.

Q. What do you pay into the Treasury?

A. Pay scrip.

Q. What did you do, when you had occasion of this kind, while you was Deputy for Mr. Edmonds?

A. I do not remember that such a case happened. There might have been. I do not remember of any. If there had been any such a case, I think I would have remembered it. I do not remember of any such case happening, but then there might have been.

Q. You don't remember any particular case?

A. No, sir; I don't. It is something that happens very seldom, anyway,—*very* seldom.

Q. It was very seldom that money came in in that way?

A. It is very seldom that a man sends $100 in that way to buy 80 acres of land. Most men are aware, throughout the State, that they can purchase scrip for swamp lands, but once in a while they send in money in that way, but not often.

Q. What did you do with this money when received?

A. I usually kept an envelope in a private drawer in the safe, and put it in there.

Q. At the end of the month what did you do with it?

A. Deposited it, generally. I used what belonged to myself and the avails of it, from the profits of it, as my own.

Q. What did you do with the balance of it while with Mr. Edmonds?

A. I divided one-half of the profits, the first three months I was with Mr. Edmonds.

Q. What was the amount?

A. I cannot state the amount, I have not got the minutes with me; it was somewhere near $100.

Q. Have you any memorandum that you kept at that time?

A. I have in my store, but I have not here with me.

Q. You have got a memorandum that you kept?

A. Yes, sir."

Now, on page 108:

"Q. Now in regard to this scrip, I don't know as I understood you fully about how you managed to take up lands with it. Will you just explain again when a party has ordered lands?

A. The only way I can explain it is, that if a man sends money to the office to purchase scrip, we take the money, and forward scrip to pay for the land with.

Q. State whether there was any occasion after you were in there after the first of January, 1871, while you were in there, in which money was sent for lands, and the money was kept and the lands paid for in scrip?

A. My recollections are that one or two such occasions occurred, but I cannot state when or at what time.

Q. Didn't such occasions occur along occasionally?

A. Yes, sir.

Q. And pursued the same course under Edmonds you had before?

A. Yes, sir, always.

Q. Keeping the money?

A. Yes, sir, that was the invariable practice.

Q. By the direction of Mr. Edmonds?

A. Yes, sir."

Now let me call the attention of the Court to pages 120 and 122, of this same man's testimony.

"Q. When did you have theconversation with Mr. Edmonds, in which you told him about the practice of the office when money was sent to buy land?

A. The same time that I told him in regard to the purchase and sale of scrip, I think.

Q. What did you say to him about that?

A. I related to him the practice of the office.

Q. What did you say to him?

A. I am not positive, sir, what I did say. I cannot give it in words.

Q. Well, as near as you can?

A. I told him the general practice of the office in the purchase and sale of scrip.

Q. Then what was the general practice of the office with regard to money sent for buying lands?

A. It was to receive the money that came into the office, and use scrip in place of it,—that is, take scrip to enter the land with, and use the money.

By Mr. Manager Huston:

Question. How is that?

Witness—To receive the money, and to enter the land with scrip; that was the practice.

Q. And keep the money?

A. Yes, sir.

By Mr. McGowan:

Question. Now, you may explain a little more fully in regard to that; take an instance and illustrate it, if you please?

Answer. Well, sir, if you was to send a hundred dollars to the office to enter 80 acres of land, the practice would be to put the money with your scrip money, and to enter it with the hundred dollars of scrip.

By Mr. Manager Huston:

Question. Enter the land with scrip?

Answer. Yes, sir.

By Mr. McGowan:

Question. And to charge the land up to the account of the Deputy Commissioner,—his scrip account?

Answer. Yes, sir, to whatever scrip that you had to his credit, whatever it might be.

Q. I understand you now that was the practice of the office previous to Mr. Edmonds coming into office?

A. I think it was.

Q. How long had it been the practice of the office?

A. During my time there. I cannot say anything back of that positively,—only from hearsay.

Q. You stated, yesterday, that you had no recollection of any occurrence of that kind, during Mr. Edmonds's administration?

A. Well, sir, in thinking the matter over, I think I have a recollection of one instance in which a piece of land was applied for in that way, and since proved to be government land. I returned the money personally, myself. Understand, I am not positive whether it came under his administration, or whether it was before, but I think it was.

Q. What was the applicant's name?

A. That I could not tell you,—I do not know.

Q. Where was he living?

A. That I do not know,—I do not know where he lived.

Q. What are the facts, as you remember them?

A. The facts, as I remember them, are, that it was a frac-

tional piece of land, I think in the Upper Peninsula. I think the money sent was something between 17 and 18 dollars and a fraction. Afterwards the land proved to be government land, and the patent was returned, I presume, to the office. I, from investigation, found that the land had been entered with scrip. I returned the money in place of the scrip, and had the scrip placed back to my credit again.

Q. When did you return the money?

A. During the last session of the Legislature.

Q. After you had left the office?

A. Yes, sir.

Q. How did you send it?

A. I gave it, in person, to the party having the order for it.

Q. The party was here?

A. Yes, sir.

Q. You do not recollect the name?

A. The man that I gave it to was Mr. Swineford, I think.

Q. Do you recollect any other transaction while Mr. Edmonds was Commissioner?

A. I am not positive of any other transaction.

Q. Was Mr. Edmonds's attention called to this transaction, at the time the money was sent?

A. I am not aware that it was.

Q. Do you know whether he had any personal knowledge of this transaction at all or not?

A. I am not aware that he had.

Q. If the money was sent for the purchase of this land during Mr. Edmonds's administration, you took the money, and made up the land to the man on the purchase, did you not?

A. I did.

Q. After the first conversation that you had with Commissioner Edmonds, concerning the practices of the office in purchasing lands where money was sent, state whether you ever had any other conversation with him about that subject-matter.

A. In regard to the purchasing of scrip?

Q. No, sir; the purchase of lands with money, entering it up with scrip, against somebody's scrip account. Whether you ever had any more than one talk with the Commissioner about it?

A. Well, I am not positive. We had talks at different times, but I could not say, particularly, whether that matter was brought up again or not. I do not know.

Q. Mr. Porter, did not Mr. Edmonds speak to you about it, about three months after he came into the office,—in March sometime?

A. I do not remember that he did; he may have done so.

Q. Did he not inquire of you if that was the practice of the office?

A. He may have done so. I cannot remember positively in regard to those questions.

Q. Did not you then tell him that it was and had been during the whole of Mr. Pritchard's administration?

A. If he asked me the question, I presume I did; I do not remember of any such question being asked.

Q. Did he tell you then that if such cases occurred again that the money should be paid into the Treasury and the land entered as a cash purchase?

A. Well, my recollections are that he did not at that time; but after I left the office, I think, he then spoke of it.

Q. Did he ever give you any such instructions while you were in the office?

A. I am inclined to think he did; still I am not positive that he did. I think, perhaps, he did at one time afterwards. I do not remember what time it transpired, but my recollections are that what was said in regard to placing of moneys in the office, in the hands of the Treasurer, which was received by parties in that way, transpired after I left the office; that is my recollection now. I am not positive in regard to it. I could not say."

The Senate will pardon me for reading so much of it. If there is anything that brought home to the Commissioner this transaction of defrauding the Treasury in this way, it is what appears in the testimony which I have just read. That was the whole of it.

You will also remember that Robinson said in his testimony, that his instructions from the Commissioner were, that whenever money was sent to purchase land the money should be turned over to the Treasury, and the case entered as a cash purchase. It seems to me that that is about all that can be said under this charge of dealing in scrip. It will hardly be claimed on the part of the Managers that Edmonds did anything wrong in simply dealing in scrip.

It may possibly be claimed in the argument, that he should not have occupied his time in the office that way; but it will come with a terribly poor grace, to thus charge this Commissioner, who left his home when he was elected to the office, and who has given his whole time and attention to the conduct of that office, when all the Commissioners previous to him, with the exception of Hewitt, remained at home, and transacted their own business—I say it will come with poor grace, to charge upon him, that he spent part of his time dealing in scrip in Lansing, when the other Commissioners spent their *whole time* at home, attending to their own concerns. I hardly think that will be seriously claimed. He dealt in scrip, and supposed it to be proper and right that he should.

It was a great accommodation to people throughout the State, that scrip was there for sale. The books were kept there openly. The account was kept upon the same books with Preston's and Hewitt's, and Hall's, and a hundred others.

There was no attempt at secrecy; everybody throughout the State knew that these men were dealing in scrip, and the men themselves understood that they were doing a fair and legitimate business. It should not be allowed to prejudice this case, the fact that these private accounts have been dragged in here; that it has been shown by the clerks of the banks just how

much money they used in the purchase of the scrip, and just what the profits were.

With just about as much propriety, might the prosecution have sent a Sergeant-at-Arms down to Detroit and brought up Preston's books, in order to show what his profits were, and how much money he had made, by such dealings,—at least it would be so, after it was fairly determined, by an examination of this man's property, that not one dollar of the money that was ever sent here for the purchase of land, was used for the purchase of scrip,—I mean by the present Commissioner. The evidence in this case, under this article, shows that as soon as it was brought to the notice of the Commissioner that such things were going on his office, he immediately ordered it stopped; and that is not only true, but it is also true that he ordered it to be done, without any knowledge of any law that prohibited it. The Court will remember that the management very kindly brought from up north somewhere, a man by the name of Coffron. He had money sent back to him that might as well have been pocketed by the Commissioner, had he been, in any sense of the word, induced to be corrupt in office. He sent the money down here for a fractional "forty," but did not send enough. The Commissioner entered it up with scrip, and sent him back the difference, as the law did not allow him to hold lands for other persons. There was not enough money to buy that land. But following the precedent that had been set by his former Deputy, and by all his predecessors in office, he would have entered the land up, and put the $17 25 in his own pocket, instead of returning it. On the contrary, he entered it up with scrip, and sent the $17 25 back; and the witness has it now, and the records show it.

The instructions were that all the money should be paid into the Treasury, and the transaction goes to the credit of the Commissioner. It was something that the management should have praised this officer for, instead of dragging it in to condemn him. We thank them for bringing that evidence.

I refer now to Article VI., which is as follows:

"ARTICLE VI.

"That said Charles A. Edmonds, Commissioner of the State Land Office, during his official term as such commissioner, to wit: From about the first day of January, 1871, to the 28th day of March, 1872, unmindful of the high and responsible duties of his office, of his oath of office, and disregarding the rights of the people of this State, and for the corrupt and unlawful purpose of personal benefit and gain, did appoint and keep in his office, as clerks, certain men of dissolute habits and character, and unworthy the high trust and confidence necessarily required of men in their positions, and did, also, allow his clerks in office, in violation of the laws of this State, to purchase, directly and indirectly, from the State, lands for sale in said Land Office, and to be interested in purchases made in the name of others, directly and indirectly, and to traffic, and corruptly sell and get unlawful gain, in the sale of valuable information contained in such office, within their knowledge as such clerks, and to act as the agents, for reward, of certain land-dealers, in entering land, thus giving such dealers an undue advantage over others seeking the entry of lands at said office.

"And the said Charles A. Edmonds, Commissioner of the State Land Office, was thus, then and there, guilty of corrupt conduct in office, and did commit a misdemeanor in office."

Now I suppose that the inference is, from the language contained in the first part of this article, that he employed clerks who were addicted to drinking,—or drunken, if you may so call it. This is intended to apply to Van Dunham, Clarke, and Griswold.

It is not necessary, that men whose lives are not the most exemplary in this regard, are corrupt in their dealings with their fellow men. However we may deplore the habit, however sorrowful we may be with regard to this, we all know that great men, and I say good men do get drunk. Then

further than that, men who do get drunk and are licentious are often men scrupulously honest in their business relations with their fellow men. The people recognize this when they elect their officers. This Senate, with the other House of the Legislature, themselves recognize it when *they* elect officers. Lay down the broad rule, if you choose, that none but temperance men shall have office in these United States, and nothing but the going out of the children of Israel can equal the exodus that there will be of office-holders in this country. The prosecution in this case, dare not follow that charge, or any claim under that charge, to its logical conclusion. It does not necessarily follow because a man gets drunk that he is not a good clerk, that he is not a good Commissioner, that he is not a good Senator, that he is not a good officer either under the United States, or under the State government, and it cannot be maintained.

Personally, I deplore these things as much as any man can. I know how many of our best young men go down under these bad habits, and how they frequently lead to crime.

But we have got to take the facts as they exist, and it is making a fine point, to say that an official shall not employ for his help in a State office, men that he might well and properly employ in his individual capacity. I put this question square home to every Senator, here, When you want a man to work in your garden do you ask whether he gets drunk; after his work is done? Not a word of it, you simply ask whether he can do his work well, or not, and when it is done you pay him and he goes about his business, and uses it in drink or for other purposes as he pleases, and you care nothing about it; and it is true of you who hire clerks in your stores, in your banks, in your offices, and everywhere. The question you ask is, Is he competent to do the work? Is he honest in his dealings. His personal habit of drinking or not drinking, as a rule at least, you claim is none of your business. Now, the only thing that can be claimed against this Commissioner, successfully, is, Did he believe or have reason to believe these clerks were

not competent to do their work? But there is more than that, found in this case. The clerks that have been charged with being dissolute in their habits, were men of good social standing before he appointed them; there is nothing to show that they were dissolute previous to their coming to Lansing. They had good positions where they were, both socially and otherwise. They were trusted, they were employed in various capacities, they did their work well there, and it is in evidence, and all the evidence that goes to that point is, that they did their work well here. They were particularly efficient in their various capacities in the office. There is not a scintilla of evidence that they got drunk in the office, in official hours, or that they were incapacitated for their work when they ought to have been at their work; but that is not all the charge. It is not claimed, on the part of the prosecution, that it is a matter for which this Commissioner should be impeached, that he employed, in his office, men who were drinking men, dissolute in their habits; but they hitch on the other thing,—that he did it for personal gain. But we challenge them to search this testimony, for a bit of evidence to show that he ever got a cent of gain out of the appointment of these men. Let me say to the Senate, frankly, that I do not believe that it is the presence or the absence of these vices that make men good clerks. For instance, let us turn the shield; let Mr. Edmonds appoint as Deputy, or in any other capacity, a man in his office who prates about his family altar, who is horrified when an oath is used in his presence; a man who is punctilious over these things, who is particularly moral and pious, and what are the results? Postoffice orders, Branch county field-notes; from comparative poverty to, within a few years, comparative wealth. All that we can ask, and all that you can ask of this Commissioner, is, that the work shall be well done in the office, and honestly done there.

But, second, he allowed these men to purchase land. Who? Barnard, Van Dunham, Clarke, and Griswold. I call your attention for a moment to the transaction of Mr. Barnard in

the Bush case. I think that upon a careful examination of it, you will only find this: That during Mr. Edmonds' administration Mr. Barnard and Mr. Bush had an arrangement whereby Mr. Bush should get minutes of lands, should go upon the lands with the plats in his hands and examine them, and make minutes of the timber, soil, and other things that he should ascertain while upon the land. During this administration Mr. Barnard never sold any lands for Mr. Bush, Neither Mr. Barnard nor Mr. Bush sold any lands that belonged to the State. Bush does not say so. He claims that of all the minutes that he looked since January 1st, 1871, in which Mr. Barnard was interested, and which he turned over to him, were all turned over to Mr. Hall, some 1,900 acres. He claims that he found them upon the reservation-book, upon the plats, reserved up to Hall, even since this trial began. Mr. Hall has explained that matter; he says they are reserved and are there yet, and those are the lands which he said he was holding for Bush. But he told you positively that Barnard had no interest whatever in those lands, and never had. But it is said on the part of the People here, that Mr. Barnard sold lands to Munroe and to the Hudson boys and to the old gentleman, and so he did, but he did not sell one acre of State lands; he did not sell any lands over which the Commissioner had control. He only sold lands that were taken out of the market. That is the language of the law. You will find it on pages 75 and 100 of the Commissioner's law, that where these contractors enter into a contract for the building of a road, that they may reserve land to the amount of their contract, "but that the lands so selected shall be withdrawn from market,"—those are the words,—"during the full time specified on the contract for the completion thereof." The lands were not in the market; they were under the control of Mr. Hall. Mr. Hall and Mr. Barnard had an arrangement with Mr. Potter (Hall's agent), whereby Mr. Barnard was allowed to sell some of those lands. Mr. Hall tells you that some of the lands he looked himself. He had fixed a specific price upon them, and told Mr. Potter

that if Mr. Barnard wanted to sell any of the other lands, or Mr. Robinson or Mr. Gillam, they might do so. The lands were his. The Commissioner could not have controlled them if he had desired to do so. The law does not say through how many hands these lands shall pass, before clerks may deal in them. Certainly the law of 1861 does not prevent clerks, nor officers in the Land Office, nor Auditor General's Office, from dealing in *any* lands. That is not the scope or meaning of that law, but it says, distinctly, that they shall not purchase, directly or indirectly, lands belonging to the State, and that alone.

Let me ask the question square home to the Senate, whether those lands belonged to the State when Mr. Barnard dealt in them. They did not, and could not, without some such fraud as was practiced during Mr. Pritchard's administration in the Hewitt matter. They never could go back into the hands of the State; they were reserved up and must be patented up when the contract was completed. The State had no present control over them and no prospective control. In the wording of the statute itself they were "withdrawn from the market." To say Mr. Barnard shall not deal in such land, and carry it to its logical conclusion, means that Barnard shall not deal in any lands. Suppose that the lands had been patented up to Hall, and he had sold them to Hewitt, and Hewitt to Hoyt, and Hoyt to somebody else, and they had passed through a half dozen hands, could not Mr. Barnard have bought or sold them?

But Van Dunham bought and sold land. He bought with Cornell, and had an interest in the lands; but the Commissioner had no interest, and knew nothing about it. Van Dunham had no interest in the lands bought by Hoyt,—so says Mr. Hoyt, and I am inclined to believe him; and so says Mr. Van Dunham. He had no interest in those lands, and the arrangement between them was that Van Dunham should be paid for extra work done in the office, for extra things put down on these plats, which Hoyt sent here for. Hoyt says most positively that he never gave the clerk any, and that he has no in-

terest in his purchases; but that he simply paid him for the extra work. Again, Clarke dealt in lands. Clarke bought one piece under an arrangement with his father, and divided with Van Dunham, under an arrangement with him. But in these cases, the lands were for sale. They were not lands that belonged to somebody else. Nobody was defrauded by that action. All that can possibly be made out of that thing is that these young men, the employes in the office, violated the law of '61 by dealing in lands, directly or indirectly,—not that the Commissioner did it. There is no evidence that he did or knew about the clerks. No evidence to show that he was interested in it, or had any knowledge of it. This law of 1861 says nothing about the *sale* of lands; but only prevents these officers and their clerks from purchasing lands belonging to the State. Griswold never bought lands. Griswold sold some land; but did not know when it was purchased, and had no knowledge whatever of the purchase.

The third point in this Article VI. charges the Commissioner with allowing the clerks to traffic in valuable information contained in the office.

I imagine that this charge was put in under a misapprehension. Possibly not. But I should judge, not only from the testimony taken before the committee, but from the line of examination of witnesses in the early part of this case, that the Managers understood that the minutes which Robinson sold of Crapo's, which Griswold sold of somebody's else, were gathered from the records of the office. Of course that delusion, if there was any such, has been dispelled. These minutes that Robinson sold, were things that were gathered entirely outside of the office, and that he might as well sell as to sell a man's horse,—exactly. But there is one point in the evidence that possibly, and probably should come under that subdivision of Article VI., and that is the one which I have already alluded to,—Van Dunham and Doyt. Here, I think, is some evidence tending to show that one of the clerks in the office did traffic in valuable informa-

tion which was found there in the office. He made an arrangement with Hoyt to put upon the plats certain things that appeared in the office, to assist him in various ways, to make his plats more full than what the strict regulations of the office would require, and for that Hoyt paid him $125. That is the only thing that I have found in the evidence here, going to show that any of the clerks in the office trafficked in information found in the office, and Mr. Hoyt tells you plainly and frankly that he never said one word to the Commissioner about it; that he has no knowledge whatever that the Commissioner ever knew it. Van Dunham says that he did not know it There was nothing in the records of the office that would point him to it; unless told by the clerk, or by Hoyt, he would not know it.

It is possible that it will be claimed on the part of the Honorable Managers, that these gratuities spoken of by the clerks should come under this Article, and I think myself that they should, if they go anywhere, and I ask the attention of the Court for just a minute to that point. Robinson, Van Dunham, Clarke, Griswold, and Barnard are charged with taking gratuities; they have all explained those gratuities with the exception of Mr. Barnard. There is this one point which remains unexplained, where Barnard took five dollars sent in the letter by Goddard.

Robinson has told you how he came to accept what was paid him, and the other boys have told their own stories. They all told you that they never asked any gratuities, and in each case it was simply thrown to them or sent to them in a letter, unexpected and unsolicited. They simply received it and accepted it.

In the other case, Alderman swore that he came here and made an application for two pieces of land on Higgins' Lake, and that Robinson, the chief clerk, told him he could not have those two fractions, unless he filed an affidavit that they were not chiefly valuable for timber, and this conscientious witness could not make such an affidavit, and he went away,

and told Goddard about it. Goddard knew how to get this land, and he wrote a letter, inclosing five dollars, and said, "For God's sake, do something for a poor fellow," and he got it. That is Alderman's story.

You will find Goddard's letters on pages 509 of the Daily Impeachment Proceedings. They are brief, and I will read them.

They are marked Exhibit SS:

[EXHIBIT SS.]

EAST SAGINAW, MICH., 29th Dec., 1871.

W. A. Barnard, Esq.:

MY DEAR SIR:—I enclose $60 on New York, and want the two fractions in S. E. corner of Sec. 16, T. 24 N., R. 3 W.

The fractions are 59.80 acres, I think. I enclose also $5 to buy a cigar for New Year's, and desire you to not let any of my reserved lands get rubbed out, and I further pray you to see generally that no calamity befalls me.

Oh, I enclose, also, deed that was made out to E. *J.* Goddard. I didn't notice the name until I sent it for record. My name is Ezra *G.*, and the J. got in by mistake. Can you change it?

With a Merry Christmas and Happy New Year, and great love, I am

Most respectfully yours,

E. G. GODDARD.

You will perceive that this letter is dated the 29th of December,—one day before New Year's. The letter on the next page is somewhat explanatory; it is dated April 27th, 1872, and was sent to Mr. Barnard:

EAST SAGINAW, MICH., 27th April, 1872.

W. A. Barnard, Esq.:

DEAR SIR:—Enclosed please find draft of $60 to pay interest on school lands, as follows:

S. E. of S. E., Sec. 16, T. 14 N., R. 1 W., 40 acres (10602); N. ½ of N. W., and N. W. of N. E., T. 14 N., R. 1 E., 111

(10602). Sum due, $454.50. Date, 23d June. Time 8 months and 7 days. Interest to March 1, 1872, $21.87.

Lots 4, and 5, and 6, Sec. 16, T. 24 N., R. 3 W. (10831). Amount due, $179.40. Date, 30th Dec. Time 2 months. Interest to March 1, 1872, $2.09.

N. E. of N. E., Sec. 16, T. 15 N., R. 1 E. Amount due, $120. Date, Sept. 26th. Time, 5 months, 4 days. Interest to 1st March, 1872, $3.62. (10716.)

S. E. of N. W., S. ½ of N. E., the N. W. of S. W., and S. ½ of S. W. ¼, Sec. 16, T. 16 N., R. 15 W. Amount due, $700.80. Date, August 14th, 1871. Time 6 months and 16 days. Interest to March 1st, 1872, $26.56.

E. ½ of N. E. ¼, T. 16 N., R. 2 W. Date, 18th Jan. Amount due, $240. Time, 1 month, 12 days. Interest to March 1, 1872, $1.80.

Total amount $55.94.

I enclose the $60, for you to use the balance for the poor; and while you give, *feel*, and at last we shall all be saved from *damnation*. Yours truly,

E. G. GODDARD.

Cannot I send the money to you to buy scrip for me, when I conclude to take patents for my State land, reserved?

Indorsed on the back as follows:

"E. G. Goddard, April 27th, 1872. Draft of $60.00—$56.19—381 returned with scrip.

"Filed May 9, '72."

This reads as printed "381." It should be $3.81. If there is any question about it, I will ask for the files. It was filed May 9th, 1872.

Here an excess of money was sent the Deputy where Mr. Goddard could not possibly have thought of bribery, as he was simply paying his tax.

Now, the law only requires of the Commissioner, in case of these school lands, where they are chiefly valuable for timber, that he shall sell them on half payment, and take security for

the balance; or shall be satisfied that the lands are *not* chiefly valuable for timber. The statute does not point out how the Commissioner is to get that information. He gets it in any way he chooses. If he personally knows the land is not valuable chiefly for timber, but only for farming purposes, he sells these lands to parties on quarter payment, without any affidavit; but if he does not know it, and they want to hold the land, he requests an affidavit. If the land is valuable for timber, he sells it on half or quarter payment and takes security for the balance. He sells it accordingly.

Now, you will remember that it was sought to be shown by this man Alderman, that this was valuable for pine land,—that there was some 300,000 feet of pine upon these two pieces,—so valuable that the surveyor could not conscientiously make an affidavit that they were not valuable for timber. You will remember also that that gun has been most gloriously spiked. James Lawrence, M. E. Hitchings, and Senator Waterbury, witnesses who will not be disputed on this floor, have stated to you, that the land is utterly worthless for pine. Mr. Ortman has told you that he brought that knowledge home to the Deputy Commissioner before the land was sold. Had he not a right to sell it, and was it any great corruption in the office for the Commissioner to have allowed that to be done? No, that is not all; the charge is, that for those five dollars which were put in to buy the New Year's cigars, this land was entered up to Goddard, being land valuable for pine. Goddard sent down a bribe in a letter under the guise of sending a New Year's present, and when Alderman—that innocent man—that conscientious man—was refused the land, then this Mr. Goddard greased the wheels with this paltry bribe, and got the valuable fractions on Higgins' Lake.

If there is no worse corruption than that, brought home to us, we shall certainly be well off.

Possibly, under this heading and in this connection, we should refer to another bit of evidence which has straggled into this case. I say straggled in, for I do not know what applica-

tion it can have, unless it may be put in here; and that is where the clerk, Clarke, is charged indirectly and insinuatingly with stealing some minutes, obtained by one Mr. Turner, and selling them to one Dodge. Mr. Clarke says he did not steal them, and Dodge says he got them of Clarke but Clarke did not know it. Turner himself makes no such claim.

The fourth subdivision of Article VI. charges the Commissioner and his Deputy and clerks with acting with certain land-dealers in entering lands. Now I hardly think that the presumption should be against the Commissioner. It seems to me but fair, in dealing with the respondent, whether this be a civil or a criminal tribunal, to presume honesty and good faith in the exercise of his official duties. Let us take that presumption. Has he allowed his clerks to act as agents? Did he not have a printed slip placed upon the desk of each one of them,—a rule forbidding them to do so? Will the Managers tell us that is a mere ruse to cover up corruption? Was he, away back at that time,—long before this impeachment trial was thought of,—was he manufacturing evidence? Was that rule simply buncombe, and did he not mean anything? The presumption is not a fair one, and I apprehend that the Honorable Senators will not entertain it. They will say that the Commissioner must be considered as acting in good faith until the contrary appears, and you will believe the evidence of Mr. Gillam, one of his most trustworthy clerks, that he went to Mr. Edmonds and asked concerning this rule, and was told that no privileges would be granted to anybody in the office. Would he not have given them to Gillam, a man who has worked honestly and industriously all his life, and yet laid up but little of this world's goods, if there was anything to come from it? Was he not as willing that Gillam should have privileges of that kind as any one? If there was anything to be covered up, would not Gillam's position cover it up better than anybody else's? Would he have allowed the drunken clerks—men who, when the wine was in and the senses out, would tell all about

it—these opportunities and kept them from Gillam? No, that will not do. The only time when it was brought to the Commissioner's knowledge was when Mr. Gillam went to him about it. You will remember what he said about it,—what he told Gillam. Unless the presumption is against the Commissioner—unless it be presumed, simply from the fact that he has been charged with crime, that he must be guilty—then you must allow that he acted in good faith, and that he did not allow his clerks to act as agents for personal gain. I now leave Article VI., and ask your attention to Article VII.

By Article VII., he is charged with having violated Section 234 of the Compiled Laws of 1857, by not paying into the Treasury moneys received. If there is any doubt resting in the mind of the Court, in regard to our position under that article, I will ask that, before they pass upon it, they read the answer:

First. We did not break the kettle.

Second. We took it home before it was broken.

Third. We never borrowed it.

If any such law existed, which was binding upon us, we did not violate it. We paid into the Treasury every dollar of money that came into our hands as Commissioner, so far as we know. The law referred to, did not, and could not, apply to the Commissioner. And again, the law, whatever it was, and to whoever it applied, has been repealed; it does not exist as a valid law; was repealed by the Revised Statute of 1846.

Next we come to Articles VIII. and IX.,—that part which the learned Managers have doubtless considered the *bete noir* of the whole case,—those in reference to "Every Wednesday Night." I propose to leave the discussion of those to my worthy colleague; but I ask you, as preliminary to what he may say, to take that paper and read it. There is a story told of a man who wandered about a section of the country, in the dark, where there were many deep pits, and he fell, as he supposed, into one of them, and caught hold of a stick that laid across the top, from which he dangled in what he supposed to be a

bottomless cavern. He thought of his sins, his worldly affairs, and his wife, and tried to prepare himself for death. His arms grew weak as he held on, and, shutting his eyes in prayer, he suddenly let go, and fell to the enormous depth of six inches. So have the good people of this country held their breath, and with closed eyes involuntarily prayed for deliverance whenever this wonderful paper was mentioned. Read it for yourselves, and you will find the shock quite as great from the exagerated statements *about* the paper, as from any obscene matter *in* the paper.

Now let me ask you to do this: Take your scissors and clip this paper to pieces. Send one article to Bonner's Ledger, that of "Beautiful Snow" to the Ladies' Repository, and another article to Greeley's Tribune; send the boots and shoes advertisement to the Lansing Republican, make a hash of the balance and send it to the Sunday editor of the Chicago Times, and all will come back to you double leaded; you will read it, your wife will read it, and your children will read it, and you will hardly guess that you have read anything *unusually* obscene.

We are not here to defend it; neither my colleague, the respondent, or myself. If, when that personal quarrel took place in the front room of the Land Office, when it was brought home to the Deputy Commissioner that all the facts in regard to his taking that postoffice order had been ascertained and brought fully to light,—if, when he hurled back his abuse upon the Commissioner at that time, he had taken his one good arm and struck him down, or his right foot and kicked him into the street, it would not have been anything that we should have commended, yet it would have been a thing for which this Senate would not have said the Commissioner should be impeached. In the heat of a personal quarrel,—in the heat of a political campaign,—men say things and do things which they are sorry for afterwards,—things that are not to be commended; write things, even in the New York Tribune, or the New York Independent, itself, that probably

better be left out,—insinuations, innuendoes, things from which a squeamish mind may wring something that would not be exactly decorous; but after all, one would hardly say they should be impeached for it.

Before passing from this, I wish to ask the Managers to what part in that paper they point, on which to rest their claim to obscenity? We are entitled to it. They certainly do not claim that it was all so; and we claim they should be a little more definite in that regard.

I now come to Article X. It is charged that at divers times, since July 5, 1871, the Commissioner had been drunk, or so affected by his drinking intoxicating liquors, etc., as to disgrace his office, or be unfitted to discharge his official duties, hence there was good cause for his removal under the law of 1871. My recollection is that the law has been read to you. It refers simply to the removal of officials for drunkenness. Now, I understood the Honorable Manager, who has so ably opened the case on the part of the People, to say that they claim nothing under Article X. But I understood him to go on and argue that the Commissioner had done things that certainly could be brought under no other article, for which he was to be condemned. He told of the Chapman House affair, and of the Lansing House affair, and undertook to bolster up the man Baker, who is the very heart of the testimony with regard to this article. If they claim nothing, why load down this case with the argument? If they claim anything, do they claim it under that article? Under the article, if we were drunk at all, it was after July 5. But under the evidence, if Edmonds was drunk at all, it was long previous to July 5. There is not a particle of proof before this Court that the Commissioner was drunk after the 5th of July. It was in March and April that both the Chapman House affair and the other affair occurred,—if I recollect right,—at least the Chapman House affair. The spree, or the "ratification," at the Chapman House, was April 24. Conkling has told you the Commissioner came there to board either in March or

April. Suppose it to be April. He was there two months, and must have gone away in June,—which was the fact. Yet, Baker tells you that the occasion at the Chapman House was, he thinks, the 1st of July or later. Now they have sought to fix upon us the charge of drunkenness,—if fixed upon us at all,—by Porter, Baker, Quigley, and George *Fowler*. What an array of witnesses to prove drunkenness. I had almost exclaimed, "Heaven save the mark!" if the Commissioner is to be proved, as drunken, by such witnesses. Porter, for instance, heard the Commissioner swear, saw his face flushed with anger, and smelt his breath. On cross-examination it showed very plainly, indeed, that it was not *bad whisky*, that affected the Commissioner, but *bad Porter*. Porter that had not only soured, but absolutely spoiled, and should, at that time, have been spewed out. In the language of the able gentleman who preceded me, I will say, at least, of this thing, "that it is too trivial for candid consideration."

What then of Baker? Baker did not know whether it was the 1st of July, or later; but he did know, that when he returned the third time to the Chapman House, that Tom Marshall came and laid his hand upon his *left* shoulder. He was sure about the shoulder,—on the *left* shoulder, Thomas laid his hand very gently, and said, "It it all right, now, we have got Edmonds to bed." Did you not all then think of the story of the three black crows? Out of that one statement which Tom Marshall made to Baker at midnight, with his hand upon his *left* shoulder,—while at the same time Tom was locked in his room up stairs by his sweetheart —I say out of that statement which Baker has detailed before you has grown all this clamor and furor about the Land Commissioner of Michigan being so drunk and debauched that he had to be carried to bed. It has been published in New York, and even in California, that the Land Commissioner of Michigan had become so dissolute in his habits, that in a midnight orgie with his employes, he got so beastly drunk he had to be carried to bed. Yet Baker does not remember seeing

Straub there that night. He does not remember that he played billiards there that night. He does remember that at one time he saw the Commissioner at the head of the stairs when he went back, and some person with him, and then again he only remembers that he saw one man.

It hardly seems fair that any comparison should be drawn between that wild man, who has so interested himself in this case, as appears by his own testimony,—who has made haste here to testify against the Commissioner,—I say it hardly seems fair that any comparison should be drawn between him and the honest Dutchman who sat upon that chair and testified. What interest had Straub in this case? Why was he interested to clear the Commissioner? The man, Baker, had interested himself from the very start; he had hunted up testimony, here, there, and everywhere, even before the committee reported. He had told the old man Shattuck certain things. He had gone all over, interesting himself in this case. He anxiously desires a conviction. Was there anything in the demeanor of the man Straub that showed he was not telling the truth? Was there anything in the cross-examination that showed that the man was utterly unworthy of belief, as has been charged upon him? He told you how he came to go there. He was an Odd Fellow, and had been in his lodge that night, and after the meeting, was going by the hotel, when he heard a noise. He went in. He saw the Commissioner going up-stairs. Is he corroborated in that? Conkling says the Commissioner went up-stairs about that time. No one was with him,—no one carrying him. Straub entered the billiard-room and found this man Baker playing billiards, and, as he tells you, he was drunk. Is there anything else in the testimony which makes this Court believe that Baker was drunk? If he was not drunk, why has he fixed the time on the first of July? If he was not drunk, why has he forgotten that he played billiards, as has been testified to by Griswold and Straub? If he was not drunk, why did he say before that committee that he saw this man carried

up-stairs; or why has it been necessary to deny that he said so before the committee, and charge it home,—either upon the committee or the reporter,—that he did not say so? It will not do. He says, on page 375, that he was requested by the Mayor to require places to be shut up at ten o'clock.

On page 378, on cross-examination, he is asked "You were requested by the mayor to see that places were shut up? "Answer, No, sir." Question, What was the request? Answer, The mayor requested me to look after certain violations of the ordinance and to report to him." On page 376, he says positively that he believes he saw Edmonds on the stairs the third time he went in. On page 380, he first says the door was closed, then he says it was simply opened a little, and that he saw no one but Tom Marshall. But did he see Tom Marshall there that night? What about this testimony? Did not Marshall tell you all the circumstances of his career that night; how he went up-stairs at eight or at half past eight, and was not down afterwards? Is it possible that he could have forgotten about it? He has most willfully perjured himself here. He has committed a perjury that might have been found out by the Managers themselves, or by anybody who chose to investigate the case, if it was perjury. He went up-stairs and stayed with the lady who was afterwards his wife, until ten or eleven o'clock and then he went into Conkling's room, and she locked the door, and kept the key, and he did not get out until morning. Could there be any mistake about that? He remembers the occasion because it was the celebration of the wedding of Conkling. He cannot be mistaken. He had been down in the bar-room in the early part of the evening. He cannot be mistaken about that. He has willfully lied, else this man Baker was drunk. Put it in the most palliating form you can. Marshall, Griswold, Conkling, and Straub all corroborate each other; and, if one witness can impeach a half-dozen, then has the valiant Baker impeached the whole party.

Another witness that was employed by the prosecution to

fix drunkenness upon this Commissioner was Orrin B. Quigley, a man who had lived in Coldwater for ten or fifteen years, had been in business there while the Commissioner was register of deeds for four years,—while he was a resident of the county for as many years probably as Quigley had lived in Coldwater, and yet he had only been acquainted with him for the last two years,—the man who, to his own shame, confessed upon the witness stand that he himself, at the very house where he charged this Commissioner with being drunk, was arrested and taken to the lock-up for being drunk and disorderly.

Then comes the man Fowler. Now, I will not say that Fowler, when he was upon the witness stand, was drunk, but I will say that his testimony reads very much to me as if *it*, at least, was drunk. Before he was asked anything about it, he ran on to say that the Commissioner had been drunk three or four times,—any number of times, from two to ten, and that he himself took his drink every night. He says that he saw the Commissioner these times he was drunk at the Chapman House, and that it was after the first of June. He insisted upon that; he recollects that clearly. It was while the Commissioner was boarding there, and it was after the first of June. I think it is fairly in evidence here that after the first of June the Commissioner was not at the Chapman House at all. He left there as a boarding-place and went to the Lansing House.

There are some other witnesses that bear upon this question of drunkenness. There was Mrs. Hotaling; she saw the Commissioner at half-past nine, that night,—was near him and talked to him. The Commissioner, her husband, and herself, were all in the hall together. They stood close together, and had a talk. You need not be told that a woman can tell when a man is drunk,—they know it every time; they know it better than Baker; they know it better than Fowler. She says he was not drunk at that hour of the night. And yet Quigley had gone up stairs an hour previous to that, and *he* knew he was drunk at that time.

There are other things connected with that Chapman House affair that seem to me go to the credit of the Commissioner, instead of to his discredit; things for which he should be commended. It seems to me that it should be very evident to the Senate that he was there for the purpose of taking care of his clerks,—seeing that they did not go too far that night, and on that occasion. He entreated them; he even went so far as to threaten to displace them from his office if they did not stop; he told the bar-keeper not to let them have any more liquor, and insisted upon it, and they did not get any more. He worked with Conkling, as Conkling himself has told you, to get those boys off to bed. Told Conkling, that if he (Conkling) went away he thought the boys would go. And every man and woman who saw the Commissioner there that night, except those witnesses who have made haste to testify against him, saw him sober.

There have been some other witnesses in this case who have been questioned with regard to Mr. Edmonds' personal habits, men who have met him every week here in Lansing, who have met him upon the Boards at least every month since his official term,—men who have met him at the hotel, in the streets, and in his office,—everywhere except in the drinking saloons, where neither he nor they went. They have no knowledge that he was ever incapacitated for doing his duty; they have no knowledge that he ever drank any whisky, or anything else intoxicating. On the contrary, one of them had knowledge that when he was asked to drink he refused. Now, we do not claim that Mr. Edmonds is a temperance man; he will not claim it for himself. When he wants a drink of champagne or wine he does not hesitate to take it, but there can be no successful proof under the heavens, that he is a drunkard or even gets drunk. It does not appear in this case; it cannot appear in any case. Those who know him best, know that thing best.

The Senate here took an informal recess of five minutes.

AFTER RECESS.

Mr. McGowan continued as follows:

MR. PRESIDENT AND HONORABLE SENATORS—I had just reached Article XI., which charges the respondent, that on or about the tenth day of October, 1871, at the Lansing House, he did commit adultery with a female unknown, and also that he did commit other adulteries at divers other times and sundry other places. Before proceeding to the discussion of that article, I desire to read to you from page 164 of the Impeachment Proceedings, left-hand column, last paragraph. I will have the credit of at least introducing some good authority in this case. I quote from one of the Honorable and learned Managers:

"Now, so far as crimes are concerned, as far as misdemeanors are concerned, especially those of a technical character, there can be no doubt but that the question may be propounded with a great deal of force; and the statute is, so far as relates to that class of cases, that courts of impeachment act upon the same basis exactly as in criminal jurisdictions; but if an officer commits a murder, there is no question but what this Court, it that question were before it, would decide upon the same ground, and would define murder in the same way that a court of jurisdiction would define it. If it was a highway robbery, or larceny, this Court would define it in the same way."

I also ask to read from the 2d Vol. of the Compiled Laws of 1857, page 1541:

"(5858.) SEC. 3. No prosecution for adultery shall be commenced but on the complaint of the husband or wife; and no such prosecution shall be commenced after one year from the time of committing the offense."

Now, with that good law and good common sense before you, and the statute before you, I ask your attention but a few moments to the testimony under this article. The first witness is Charles Anderson, a man who revered the truth and would neither take from nor add to. He saw the Commis-

sioner in the hall in the Lansing House, as he thinks,—he is not certain,—with his hand upon the knob of the door, and thinks the door was closed after him; that the room was 97. Charles returned to that room sometime afterwards. The Commissioner went directly down stairs. When seen by Anderson he was entirely outside the door, and in the hall. Charles, the witness, returned to that door sometime later in the morning, rapped, and a woman came to the door and gave him the lamp. That is hardly conclusive of adultery. The next witness is Mrs. Hudson. She testifies that her son notified her, at one time, that the bed was soiled in Mr. Edmonds' room. She went there, with the chambermaid, and found the bed soiled. I, of course, believe that she told what she considered exactly the truth. Undoubtedly the bed was soiled. She simply gives it as her opinion, that it was soiled from the menstrual flow of a woman. Dr. Cutter and Dr. Bennett testified that the Commissioner has a disease which he cannot control, which is a bleeding from the urethea. They told us of an instance where they met at his house. The facts and circumstances of that occasion are fresh in your memories, and it not worth while for me to go over them. Now, whatever this Commissioner has been charged with, and whatever has been charged against him, it has not been claimed, so far as I know, that he is wanting in ordinary intelligence,—that he had not ordinary common sense. Does it seem possible that any one should earnestly claim that for the purpose of licentiousness he went to bed there with a woman in that condition and soiled the bed? There is nothing of it. The soiled bed must be explained on the physician's testimony; it can be explained no other way. The idea that the Commissioner took a woman into his room in that condition, and lay there with her during the night and soiled the bed, as he must have known he was soiling it, is supremely ridiculous, and cannot be characterized in any other way. You have Mrs. Hudson's testimony, and you have Charles Andrews' testimony, and that is the adultery, so far as it is alleged to have been committed at

the Lansing House. I should not feel warranted in detaining you a moment longer on this part of the article. The balance of this article is a drag-net, cast out to catch whatever silly fish might be swimming along, whether they should be bullheads or suckers, and it caught Cole, and Baker, and Bosworth. Give them full credit, and Mr. Edmonds has been seen at two different times coming from the house of Alice McCabe, a place of ill-repute,—once in the morning, after sunrise, and once in the evening.

But Baker, it seems to us, is not the most trustworthy witness in the world, and what he said upon that point is not without contradiction. He first claimed that he and Bosworth went to Alice's the first night,—that they drove there. Upon reflection, and having time to refresh his memory, he changes that statement, and becomes quite positive they went the second night, and went on foot. But Bosworth tells you that they went there the same night they visited the house of the widow woman; that they did not go there on foot, but that they drove there in a buggy. These two officers were looking for a man who had fled from justice; looking for a bigamist. They had been out of town, they were going to Alice's, and they were going to other places about town to look for the criminal. They came to Alice's; two men walked out,—men of medium size, as Mr. Bosworth says,—and went away, and they drove to the widow woman's. One of them says they returned that night; the other one says they returned the next night. In any event they went there some time, to look for their man,—to look for the runaway bigamist, and went in and stayed about fifteen minutes. Baker asked Alice if he was there; she said he was not. Baker was sure she would not lie about a little thing, and they went away,—made no search of the house, made no further investigation. *Baker had confidence in Alice.* It took them fifteen minutes to ask that question, or else they had other conversation, and went away. Bosworth says that the two men that came out of Alice's that night, were of medium height; on the sharp leading examination by the Honora-

ble Managers, he said he was rather of the *impression* that one of them was taller than the other. When asked, upon the cross-examination, if the question itself did not suggest that, he admitted that it probably did. At least there was not sufficient difference in their height to attract attention. Neither Bosworth nor Baker noticed a dangling sleeve hanging beside a man who walked away. The whole thing, upon the statements of these men, is misty and uncertain. They evidently were looking for something besides a criminal; or, at best, intended to mix laborious duty with illicit pleasure.

You have seen Griswold on the witness stand, and have seen the Commissioner here in the Senate Chamber,—know the marked difference between their height. Would not Bosworth notice it? Bosworth was acquainted with Griswold. He met him when he was at school at Olivet. There was nothing that attracted the particular attention of the men in the buggy. But all this time they were looking for the bigamist,—those sharp, keen-eyed fellows who were scouring the country, and looking in every house of ill-fame for a fugitive from justice,—but did not notice the men sufficiently to know that one was a tall and the other a short one. Griswold swears positively that he never was there with the Commissioner, he never went there with him nor went away with him, nor met him there. I would beg leave to differ with my learned brother who has stated that the testimony of Griswold has been impeached by his conduct, by his own statements, and the statement of others. That is what I imply, at least, from the statement of the Honorable Manager who has opened the case. I saw nothing in the boy's demeanor, or in his testimony, that would lead me to suppose that he intended to tell anything but the exact truth. He may have been reluctant in telling what occurred outside of the office. He may have been reluctant in stating what he supposed to be a misdemeanor in office, in the sale of land; or telling that he was down to that house of ill-fame. He may be reluctant in regard to that, and not be untruthful. There may be good reasons, and I put it down

to his credit and credibility, that he was ashamed to tell that he was at such a house. He may have a father or a mother, whose memory he respects; or, if living, whose good will he respects; and he does not wish to put himself so on the record. Has he said anything to lead anybody to suppose that he was falsifying under oath? You must search his face in vain for any such thing. He is before you uncontradicted, except by Baker; and, where their statements clash, Griswold is corroborated and Baker is not.

Mr. Cole testified that he saw the Commissioner come out of Alice's house. When we opened the case on the part of the respondent we stated what we expected to prove concerning this transaction, and stated it in good faith. Part of the proof we have been able to make and part we have not. That Mr. Edmonds went with one of his clerks that morning to the river bank, below this house, and then turned back alone, for want of a boat to cross the river, is in evidence. Mr. Clarke fixes the time the same as Cole, and also by the further fact of a show being in town the day before. In this his statement stands uncontradicted, and in no way conflicts with the testimony on the part of the People. It must be taken as true. Of course, we would gladly have proven the balance of our statement. But it is not always that we can depend upon men as witnesses, even after they have been talked with, as the Honorable Managers well know. It is not always the case that you can get a witness that will testify as you expect, as the Honorable Managers also well know. And it is folly to put a witness on the stand whose testimony as to the only point you desire to use him will criminate himself, and who is familiar with the rule of evidence in that regard. You have got the proof at least, that the Commissioner did not stay there all night, and was there but a few moments. Clarke delineates the circumstances why he went to the river. He said he was then an invalid, which is a fact that all his friends well know; and one of the purposes for which he came here was to have the use of the mineral water. He says

he was going there at that time, and he induced the Commissioner to go with him. But the Honorable Manager says they should have looked across the river, and have seen that the boat was on the other side. It may be that they would, and it may be that they would not. Does the Honorable Manager always look to see whether the boat is on the other side when he goes down that way? I am not clear that he can see until he comes almost there, whether it is on this side or the other. But suppose they did find it on the other side. The sun was half an hour high, and it was about time for people to be moving about. Is there not a boy there attending the boat? Is that an uncommon occurrence? Do people ever turn back when they see the boat on the other side? No, not if they intend to cross,—not if they have any desire to cross.

It is, I believe, a very common occurrence to find the boat on the opposite shore. The traveler, in that event, either waits for some one to bring it over, or goes away. This morning, Clarke waited and the Commissioner went back. The time mentioned by Cole and that by the witness Clarke, are about the same,—there could have been but a few minutes difference in Edmonds turning back and the time Cole saw him come out of the door.

It is possible that the Commissioner rushed in there and committed adultery and rushed out again and up the street. It may be possible, but it seems a little absurd.

I have now gone through with all the articles in this case. There are some things in the case I could not mention under these articles—some miscellaneous charges that cannot be classified. We are charged in the evidence with something on general principles. For instance, that we have unnecessarily increased the clerks in the office. I do not know that the claim is made that we did this with a corrupt purpose. There is on file, from the Auditor General's office, a certified statement giving the average number of clerks for the past three years. In 1869 the average was 9 5-12; in 1870, 10⅓; in 1871,

15¼. Here it becomes apparent that the increase in 1871 over 1870 was less than five. This Commissioner has instituted the abstract business, and it required four new clerks to carry that on. He found the accounts with contractors far behind, and in a state of confusion. It was the work of one man to bring them up and take charge of them, and for this purpose he employed another clerk. There are five clerks accounted for. I think this Senate will say they were very properly employed. Previous to that time, at least in 1870, they had a Deputy, a chief clerk, a draughtsman, a book-keeper, and a number of other clerks working on the field-notes, making, in all, as many as employed by Mr. Edmonds, save the five I have already mentioned. Simply from the fact that this Commissioner had systematized things in the office, he had more than doubled the work they had done before. That is not a strong assertion, and is proven by the testimony here. He put his office into order, organized it into departments, and put an man at the head of each department, and made him responsible for the success of it.

During the year 1870, they made field-notes for the office, to the amount of twenty-six or twenty-seven towns. During 1871, the same number of clerks made 127 towns. Why? There were no more clerks working in that department,—not one. It was simply because the work was efficiently done. The whole institution felt the presence of an active, honest chief, and the work went steadily and rapidly forward.

In 1870 they copied for outside parties, of the field-notes, from forty to fifty towns—during 1871 from eighty to ninety. In addition to that, Governor Baldwin recommended that more clerks be employed. As the Governor said, meeting the Commissioner upon the Board, at the very commencement of his term, and knowing the wants of the office from his previous business connection with it, and before the Commissioner had a chance to know himself, he (the Governor) recommended him to have more help if necessary, and to make this abstract. Is there any evidence here before this Court that he has had

too much help in the office, and that the work has been too well done? I think not!

Two witnesses have been introduced, who have testified with regard to jokes gotten off by the Commissioner. If that testimony had any meaning, it was to show the intention of the Commissioner,—that he went into the office with a specific intent. It was not an intent with which we have been charged, however, in the articles of impeachment. It was an intent to steal.

Senator Romeyn—If the counsel will allow me,—as the usual hour for adjournment has arrived,—I move that order be suspended for this day. I do this with the understanding that the counsel has nearly finished his argument. Am I right in my understanding?

Mr. McGowan—I have nearly finished.

The Presiding Officer—The rule will be suspended unless objection is made.

Mr. McGowan—I feel that I have wearied the Senate, and I will hasten to the close. But it seems to me that I should remark just here, that it is a desperate case that requires such remedies. It is what the physicians would call heroic treatment. When it is sought to show that the Commissioner of the Land Office was guilty of corruption in such a transaction as the Bathay contract, I say it is a desperate case that requires such propping.

Let me give you, very briefly, another exhibit of what has been done in the office in 1871, as compared with 1869 or 1870. In 1869, there was put in the Treasury from field-notes and plats, fees that came into the office—fees which it has been estimated here went into the pockets of the clerks, during the year 1871—there was put into the Treasury in 1869 from those sources, $1,032.65, and in 1870, $2,811.75, making a total for those two years of $3,844.40. In 1871 there was paid into the Treasury from the same sources, $2,733.45, and during the first four months of the present year, $1,223.89, making for the sixteen months of Edmonds' admin-

istration paid into the Treasury, $3,957.24,—more than $100 more in sixteen months than was paid under the former in twenty-four. The average of these fees during 1871, was $225 a month. At the same rate it would make for the two years of 1871 and 1872, nearly $2,000 more than was paid in for the same length of time previous to that.

Can the gentlemen account for it? Has there been any greater demand upon this office in 1871 and 1872 than there was in 1869 and 1870 for this outside business? Have there been any more plats required? Have there been any more field-notes furnished, and outside work done? You can account for it in either way you desire, but there are only two ways that gentlemen can possibly find to account for this difference. One is, that more work was done in the office in 1871 and 1872 than in 1869 and 1870, and the other is, that that two thousand dollars belonging to the State permanently lodged in that envelope which has figured so largely in the trial of this case.

In November, the end of the fiscal year for 1870, just before this present Commissioner came into office, there was paid from this source into the Treasury at a single time nearly two thousand dollars. The average monthly payment before that was less than seventy-five dollars, and then the Deputy Commissioner admitted that it came from fees for field-notes and plats that he had gathered during two years. If he carried that amount of money along for two years for his own benefit, as he must have done, for he paid this money back from his own personal fund at the bank, how much money did he use that he *never* paid back? Talk of comparing this administration with past administrations! Talk of honesty or corruption in office, in view of such facts which have been dragged in here by the prosecution! At the end of April, 1871, Mr. Porter paid in $473 76, with a flushed face and a chattering jaw. He had had trouble with the Commissioner, who had told him he must pay over the money at the end of the month; that was what the law required; that was the

meaning, the spirit and the gist of it, that it must be paid in. The records will show that the average has been $225 a month paid in during Edmonds' administration. What will the Managers do with such a record as that? Will they charge corruption on that department of the office, at least?

Now, here are a number of witnesses that have been brought in the case, that I am going to simply name, because I do not know why they are here. You will remember Canfield, that came all the way from Niagara Falls, and who testified that he purchased swamp land, with scrip, at $4 an acre at one time, and $2 at another. Cummings, the county treasurer, who came here and told the piteous story of Mr. Bouck. Bouck, and John Long, and Woolover, and Conley came and told their own stories. Then the carriage-maker, who came in and told about Van Dunham not being at his meals regularly,—he was away from his boarding-house. We may hear something about that hereafter, but for the present we know not what they claim from it. We had intended to refer a little more in detail to some witnesses, showing the evident bias of their statements, and their personal desire for a conviction, but we shall not so occupy your time. We simply call your attention to Porter, to Bush, to Fowler, to Quigley, and to Baker.

Now, gentlemen, let me ask you if you can, on a calm view of the whole case, put the brand of infamy upon this respondent? I do not believe that you will. No demand of political necessity will be heard within the breasts of Senators to-day, —no, not even the faintest echo. If Justice, who balances the scale upon her fingers, is blind, she must also be deaf. If her sightless balls do not discern the empty sleeve, her dull ears must hear no clamor from without; and when each Senator, in view of his solemn oath, with his right hand upon his heart, shall announce his verdict, we shall be content.

The Presiding Officer—The Senate, sitting as a Court of Impeachment, is adjourned until to-morrow morning, at nine o'clock.

Lansing, Wednesday, A. M., May 22, 1872.

The Senate met, and was called to order by the President *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

The Presiding Officer—The Honorable Managers will proceed with their argument.

The Honorable B. W. Huston, Jr., one of the Managers on the part of the House of Representatives, addressed the Senate, as follows:

MR. PRESIDENT AND SENATORS—I propose to express to you my views of the case as briefly as I can, in justice to its importance; and I doubt not that while I may not be able to interest you as I would wish, you will yet give me your undivided attention, on account of the importance of the case, not only to the respondent but to the people of this State. I do not propose, in the remarks I shall make upon this case, to enter into the questions of law that have been raised, any further than to state to the Court the views that I hold upon that branch of the question, and upon which I shall base my argument, in reference to the facts. I take this position, and I believe it is sound, in regard to the power of a court of impeachment, that the court has jurisdiction to try any civil officer, any Constitutional officer, not only for corrupt conduct in office, but for crimes and misdemeanors outside of his office; and not only that, but this jurisdiction extends to any immorality or cause that would make it for the interest of the People of the State to demand an officer's removal. We all understand that officers that are appointed can, as a general rule, be removed at any time; and we believe that the doctrine is sound, that when an officer is elected to office by the People of the State, that the People have a right to expect of him that he will be a moral man, that he will be an upright citizen, that he will not dishonor his position or dishonor his State by any immoral practices outside of his office. I believe that when an officer is

elected to an office by the People, that it is only a proposition on the part of the People when they cast their votes for him, to receive him into their service for the compensation that the law provides may be paid for that service; and that when he takes the oath of office and enters upon the duties devolving upon him as such officer, that he agrees implicitly that he will be such a person as will not be a discredit to the State or a discredit to the position that he occupies.

Now, the Commissioner of the Land Office is, as other State officers are, elected for the term of two years. Suppose the Commissioner was elected for ten years, and suppose that when he comes to this city and enters upon the duties of his office, that he should take it upon himself to publish a paper such as the paper termed "Every Wednesday Night," and should see fit to issue such a paper weekly; and suppose, in addition to the publication of the paper I refer to, the Commissioner should undertake the business of selling intoxicating drinks; and suppose he should add to his institution fifty courtesans, and to that again add a gambling-house; suppose for a moment that he should establish in the city of Lansing an institution that would be notorious not only within the borders of the State of Michigan, but throughout the United States; And suppose, also, that he was at his office at eight o'clock in the morning and remained there until twelve o'clock at noon, and from one until five o'clock in the afternoon,—that he was punctual, that he was honest in his office,—would anybody claim, for the term of ten years the people of the State of Michigan would have to submit to have an officer who was conducting himself in that way, and that there are no means by which he could be removed; and that the people of the State that had elected him for ten years would have no right to demand and insist that this Court should remove him? The very proposition that an officer could disgrace a State in that way, is monstrous.

If he could not do it for ten years, he would have no right

to do it for two years; he would have no right to do it for one year; he would have no right to do it at all.

So we insist that whenever the interests of the State, and the honor and credit of the State, demand that an officer should be removed, this Court have a right to remove him; and we believe the authorities sustain us in assuming that position.

Now, counsel say that you must not strike at a defenseless man through your Constitution. Counsel also say that you must not depart from the old pathways and precedents; and we have heard this cry of precedent ever since this Court commenced its sitting. What is there in these precedents that need awe the people of the State of Michigan, or this Court? What would be the effect of a precedent of this kind? Simply this, may it please this honorable body: It would be saying to a party when he is elected to one of the offices of this State, we expect that you will demean yourself as a citizen ought to demean himself; we expect that you will maintain your standing in the community, and we expect that you will not be a disgrace to the State; we expect that you will be a law-abiding citizen; we expect that you will be a chaste man, and we expect that you will be a temperate man. We do not expect that you will be immoral; we do not expect that you will be corrupt. And I insist that that would be the effect of the precedent. It would be a noble precedent; and it is not a precedent that need frighten the people of the State of Michigan.

Believing that the position I have taken, with regard to this matter, is sound, and one that would be for the honor of this State, and all others, to adopt, I will enter at once upon the discussion of the testimony, and see whether the evidence establishes the fact that Mr. Edmonds has been guilty of corrupt conduct in office, or of any of the charges brought against him in the articles of impeachment.

Now, I suppose that the fact, alluded to by counsel, that the Commissioner is a one-armed man, and that the missing arm was lost in the service of our common country, will have no

weight with the Court, in the determination of this case. The counsel tells us that Justice is blind, and therefore I suppose Justice does not see the one arm. And I am led to believe that if there should by any difference in citizens, the man who has been in the army, and has seen the evils arising from the violation of laws, ought, above all other men, to be a true law-abiding citizen. The fact that he has been in the army is certainly no excuse for dereliction to duty, immorality, and corruption.

The first article charges the Commissioner "that he did corruptly, unlawfully, and in direct violation of the laws of this State, withhold from sale divers large tracts of land for the particular benefit and advantage of certain land-dealers and for private pecuniary consideration of himself, his Deputy, and clerks, to the damage and inconvenience of actual settlers," etc.

That the reserving of lands is a damage to actual settlers, you can readily conceive. The reserving of lands and keeping them out of the market so that the actual settler cannot purchase them, when he desires to do so for the purpose of settlement, of course, is not only a damage to the settler, but a damage to the State; because it prevents settlement, and prevents to a certain extent the prosperity of the commonwealth. The counsel, in referring to Mr. Porter's testimony says, "it was elicited from Porter, that there were large amounts of land reserved for Jones & Porter." You will find, by an examination of Porter's testimony, that there were not only lands reserved for Jones & Porter, but Porter says there were large amounts of land reserved without being placed upon the reservation-book at all; and that there were large amounts of lands that were reserved simply by penciling upon the plat; that was the way these lands were to a large extent reserved.

In referring to the application of Allison upon 32 North, 2 West, the counsel claims that the first application that was made by Allison was upon the 30th of April. Now, you will remember, if you will refer to Allison's testi-

mony, that he says he applied for this land on the first of October,—that he received patents for part of that section, and that he deposited $320, which was returned to him, and that he expected to get lands for that, which he did not get; so that, as you will observe, there was an application made for these lands last fall. Now, I have a suspicion that this is the way that this business is done,—that it is notoriously so: That when parties apply for lands, these other applications are put in for parties that are interested and have a knowledge of the internal workings of that office; and that they are often dated back may indeed be true. It seems that there was an application made for these lands, by Hewitt, upon the sixth day of July, and, as you will see by referring to that application, he asked that those lands might be reserved until he could ascertain the name of the party who wished to buy them. Mr. Hewitt, it seems, did not know then for whom he wished to buy those lands; but still he tells you, in his testimony, that Mr. Thomas looked the lands, that he expected to get the name from Mr. Thomas, and that he expected to sell the lands to some one in Pennsylvania. Hewitt tells you, in his testimony, that it was not only so in this case, but that it was so in other cases, and that it was his general practice, when he applied for lands, to apply for them and deposit his check. That is the way these lands were purchased.

Mr. Robinson, the chief clerk of the Land Office, whom no one will pretend was not interested for the Commissioner, and who, at least, could not be suspected of coloring his testimony against the Commissioner—Robinson tells you, it was the universal practice, when desired by parties, to deposit their check, and have lands that could not be purchased with scrip, held upon their check.

Now, I have made this remark, and I will make it here, that I will buy all the school land in the State of Michigan to-day; I will buy all the agricultural land in the State of Michigan to-day, if my check will be taken in payment as Mr. Hewitt's check has been, or as Mr. Palmer's, or Woodhouse & Butler's

checks have been taken for these lands, if I may be allowed to hold them until I get an opportunity to sell them. What was Hewitt's check? It was simply an order drawn upon his own bank, and lacked his indorsement, upon which only it was payable. The money could not have been obtained on it until it was indorsed, and it could not go into the Treasury. But what was the effect in this case? Just the same, indeed, as in every like case, and it was this: This draft was deposited on the 6th day of July—so they claim, but I do not believe it—that, however, is what the testimony shows. It was for 200 acres of land at four dollars an acre, which would be eight hundred dollars. Interest upon that at seven per cent, would be $56 a year. Those lands were not patented until the first day of May; that is, one "forty" was patented and a certificate was issued for the balance. The law requires the Commissioner of the Land Office to notify the treasurers of the counties by the first of March, in each year, of the lands sold previous to that time, so that they can be assessed. Now those lands cannot be assessed for 1872; there has been no notice to the treasurer that the land was sold on the 6th of July. That is not all: the certificate will not draw interest from the 6th of July The certificate that was issued May first will not draw interest from July first; consequently the Treasury of the State has been defrauded, in one case at least, of what interest there would have been due upon the part that Mr. Allison would have bought on the first of October. Not only that, but had the Commissioner done his duty as the law prescribes, by issuing his certificate on the first of July, the State would have received the interest on the two hundred acre piece of land, which would amount to eight hundred dollars from July 6th to May 1st. The State has been defrauded, in that case, of over forty-six dollars, as you will see by computation. Now let us see what the statute says upon that point:

"At the time of the sale of such lands the Commissioner shall make out and deliver to the purchaser or purchasers thereof, a certificate in which the said Commissioner shall, in

the name of the people of this State, certify the discription of the land sold, the quantity thereof, the price per acre, the consideration paid and to be paid therefor, and the time and terms of payment."

Why did he not do that? Why did he take Hewitt's check, as Robinson testifies he did, and as Allison says the commissioner told him that he did? That is the evidence in the case. Bush says the Commissioner told him that he took it as cash; why did he not pay the cash into the Treasury on the sixth of July last? Why did he not issue the certificates so that the State of Michigan could have had the benefit of the interest in those cases? Now this is only one case in which the certificate was not issued, the interest was lost, and the Treasury was defrauded.

We called Hewitt's attention to the land that was sold to John Charlton, and we found that was arranged in the same way; we find that that is the universal practice in the office; and the only defense of this practice, we have heard, was that Mr. Pritchard had done the same thing, and that Porter, the previous Deputy, had done the same thing. Now, I don't believe this is an excuse at all. If Pritchard did what he had no right to do, that is no warrant for the present Commissioner to do it. He has no right to do that, even if every other State officer has done wrong; that is no reason why Mr. Edmonds should do wrong.

It cannot be claimed for one moment that this has not been the practice, and is not the practice up to this moment. The evidence shows that one thousand acres of swamp land have been held upon Mr. Hewitt's check, while this trial has been progressing.

Why are not these lands patented up? Why when Mr. Hewitt deposited his check—if it was received as cash—was not the money paid into the Treasury? And why was not the treasurer of the county where these lands were situated, notified, in order that these lands might be assessed? If this Court says that these lands were not held for the purpose of benefit-

ing Mr. Hewitt, that he might speculate in these matters, they virtually indorse this practice; and no one can say for a moment but that the practice is nefarious! No one can say for a moment but that it is an injury to the State of Michigan. No one can say but that it is a fraud upon those who seek to buy these lands. When men go out and look up these lands, and come in here and desire to buy them, and they are marked up for Mr. Hewitt, or for somebody else, they are defrauded out of the expense of looking the lands, the State is defrauded of the interest; and all this is done so that Mr. Hewitt may make some money. It makes no difference whether the Commissioner has profited out of it. It is one of the patent facts in this case; one of the facts that is not denied, nor pretended to be denied, but that the Commissioner has knowledge of this transaction. How, then, is this Court going to say upon this article, with this testimony in view, that the Commissioner has not withheld lands corruptly, for the benefit of large dealers? I will read another section of this law.

"The said certificate shall further set forth, that in case of the non-payment of the interest due, by the first day of March, or within sixty days thereafter, in each and every year, by the purchaser or purchasers, or by any person claiming under him or them, then the said certificate shall, from the time of such failure, be utterly void and of no effect, and the said Commissioner may take possession thereof, and resell the same as is hereinafter provided."

So that, if this interest is not paid within sixty days after the time it is due, the party forfeits the money that he has paid to the State, when he made the quarter payment; and of course, when no certificates are given, as in this case, the State loses the benefit of the forfeiture which might arise in many cases, and which is certainly nothing injurious to the party. If he buys the land, he understands what the law is when he pays his quarter payment; and if he sees fit to forfeit that, and not to pay the other three dollars per acre, that is a matter of his own.

"In case of non-payment, either of principal or interest, when due, according to the provisions of the preceding section, or according to the terms of the certificate of sale, as the case may be, such certificate shall become void and of no effect from the time of such failure, and the Commissioner may take immediate possession thereof and resell the same."

We understand,—may it please this honorable Court,—that so far as school lands are concerned, that this was beyond any controversy; that it is the practice in the office, as established by witnesses from that office, to withhold lands in that way, and that they are withheld for the benefit of these dealers. Whether the Commissioner has any interest in it, or not, I do not know,—I do not pretend to say,—neither do I care, because I do not consider it material in this case. But that Mr. Hewitt received a benefit from this transaction is patent, because he says he received one hundred dollars from Charlton. Mr. Hewitt paid nothing in that case. He did not pay a dollar into the Treasury of the State at all. He had sold the land to Charlton, and he got one hundred dollars for simply drawing his check and leaving it in the office there for several months. In the case of Allison's lands, ten or twelve dollars is all the evidence shows he received for allowing his check to lie there; and they say it was for the use of the money. What money? Was there any money in his check, drawn in that way? Counsel has read a decision of the Supreme Court, to show when there is a controversy between two individuals, in regard to a piece of school land, as the syllabus of that case that he read shows, and it does not appear but what the check is worth as much as money, that is, between those two individuals, the party who had deposited his check was entitled to the land.

Now, that is all there is of that decision. That was a controversy as to which of those two individuals should have a certain piece of land; but does that prove anything in regard to fraud upon the State? Does that prove anything in regard to not paying the money into the Treasury? Does that prove anything in regard to the loss the State sustains? Not at all.

That was simply a question as to whether the draft should take precedence as against another party that applied. But it does not show, neither will it be claimed, neither will it be indorsed by the Court, that that authorized the Commissioner to withhold land upon checks, until the parties who deposit them have an opportunity to make a sale of the lands. It seems, by the testimony, that it is not only school lands, but swamp lands as well.

Mr. Hewitt testifies that he has reserved three or four thousand acres, upon what is known as the Bathay order. We have heard a great deal about this Bathay contract and this Bathay order, and I believe Mr. Gillam testified that it was some eight thousand acres that was reserved upon the Bathay order. Now, what was this order? It was an order, a general order, not specifying any particular amount, but allowing Mr. Hewitt to reserve upon it, all the lands that he saw fit, providing he did not exceed the Bathay contract, which the evidence shows, I think, was thirty-three thousand dollars. If he did not exceed that amount, he could draw up to that amount, and he could withhold them until he could get an opportunity to sell them, and then unload the reserve and select again. Now, that is the evidence in reference to this matter; and it appears that the Commissioner had knowledge of this transaction. Mr. Gillam says to you that this order did not carry the scrip with it. I wish to call the attention of the Court particularly to the testimony upon this point, because it is not only material here, but it is material in the investigation of this case further on, when we come to the question of selling lands. You will remember it has been claimed here that when Mr. Barnard sold land, that he did not sell land belonging to the State, because when a party had a contract he had a right to reserve land, and have the land withdrawn from market. Now, I wish to call the Court's attention to the fact that the right to select land and withhold it from the market does not transfer the title at all, for the title of the land remains in the State. The State provides that the fee shall remain in the State until

the patent is issued; so that it cannot be claimed that when a party reserves upon his contract in that way, that he takes any rights any further than the reservation.

The other point I desire to call your attention to is this,—that orders of this kind do not carry the scrip with them. That is the testimony of Mr. Gillam. Mr. Robinson, you will remember, when he was testifying here for the defense, stated that the Commissioner had given instructions not to receive any orders of this kind for unmatured scrip, when they proposed to reserve lands upon unmatured scrip;—not to receive any orders except they provided that the reservation should carry the scrip with it. I asked him, as you will remember, if he could refer me to any such orders. He could not. He thought there had been such orders. Why have not the counsel, who have had access to that office, presented this court some order of that kind? Why, if those were the instructions of the Commissioner, has there not been an order of that kind introduced in evidence. It was not the fact in regard to the Ripley order, for that did not provide anything of the kind. It was not the fact in regard to the last order. That did not provide anything of the kind, and that was in November. They say that is the rule; why have they not introduced some proof? Why have not they brought in some of these orders for the reservation of lands? That would show that these orders have unmatured scrip at the present time; that he had reformed the practice—as they claim—so that orders must carry the scrip with them. It is an admitted fact, they say, that that was the rule of the office. Mr. Gillam tells you, upon the stand, and he is the man who has charge of this particular transaction, that this is the fact,—that reservations on these orders for unmatured scrip did not carry the matured scrip. What is the result, then? I receive an order from Mr. Bathay, or Obed Smith, or Mr. Hall, who has a contract, and I reserve land on the orders, and when the contract is completed, they sell their matured scrip. It is an admitted fact, in the evidence, that that could be done; and, although it is claimed that Mr. Edmonds had made a different

rule, yet there has been no evidence of that kind. That was the practice up to last fall, at least, according to the testimony in this case; so that we understand that this Bathay order was made for the purpose of accommodating Mr. Hewitt, and Mr. Hewitt only, in the holding of lands for Thomas, and for any of the other dealers; for holding thousands of acres of land, in order that he might make a profit in selling these lands to different parties. That the Commissioner knew that Mr. Hewitt had no interest in the Bathay contract, at all, and that it cost him nothing, is not difficult to understand.

You will remember when we asked Hewitt what he paid for that order, an objection was raised, and this Court decided that the counsel could not ask the question because it was immaterial. If he had paid for that order they would have been perfectly willing that he should testify. So that it shows that it was only an arrangement made by which lands might be held in that way.

There is another fact I desire to call your attention to, in reference to this first Article. It appears, from the testimony, that there is between thirty and forty thousand acres of land where the scrip is matured, but that is still held in the office, and unpatented. Now we claim that this is material upon this article, because it is the duty of the Commissioner, under the statute of 1869, to issue the patents, and it would seem that he has had help enough to have had it done. He had the authority of the Governor to bring in all the clerks that were necessary. And it seems some of those lands have been paid for; the scrip has been matured ever since he has been in the office; and Mr. Robinson testifies that in one day's time he could issue the patents for all those lands,—although I doubt that seriously. But if he could, why has it not been done?

Mr. Edmonds is presumed to know the law. It is his duty to know the law. He knew that the statute of the State required him to issue these patents within thirty days from the time the scrip matured. There is between thirty and forty thousand acres of

land, according to the testimony of the clerks in the office, that is unpatented to-day; and over twenty thousand acres of them are the lands of Edmund Hall, whom we have every reason to believe is one of the favorites of that office; and they have been paid for, for a long time. The fact is, Edmund Hall escapes from paying taxes on those lands. He can keep them without paying taxes until he has an opportunity to sell them,—and that is the reason why the patents are not issued. It is well understood in the northern part of the State why men leave their land lying in that way. They leave them because they avoid taxation. They are benefited by this transaction.

Now, we say it cannot be claimed that the Commissioner has been ignorant of this matter. The books show him how this is; and there are between thirty and forty thousand acres that should have been patented long ago. And we claim that he has violated this article in that respect.

You will see, if you have a desire to look at Hewitt's testimony, on pages 268 and 270, that when he applied for his own land he usually deposited his check, showing that that was the practice.

I desire to call you attention now to the Second Article; that is, with regard to selling lands, and allowing his clerks to sell lands.

I think you will see in a moment that the defense set up here, with regard to the transactions by Mr. Barnard, and by the clerks in the office, is a weak one; that it is no defense at all, and that it shows the weakness of the evidence on the part of the defense, with regard to this article.

The grounds upon which they claim they have not violated the spirit and effect of this article, is that Barnard sold land that did not belong to the State; that the lands sold by Griswold did not belong to the State; and that Van Dunham was interested in lands that belonged to the State, but Edmonds did not know anything about it;—but they do not deny that he knew about Barnard's; they do not deny that he had a knowledge

of the sale of lands by Barnard to Munroe; they do not deny that Edmonds knew that Barnard sold lands to Hudson. But they say he did not sell lands belonging to the State.

Now, let us investigate that, and see whether it is so, or not. The reason, they say, that he did not sell the lands of the State, was because these lands were reserved upon the Hall contract, and that Hall had a right to reserve them. Hall had a right, under the statute, to reserve land upon his contract, that was not computed up to the amount of his contract. I will admit that. That is the statute of the State. He had a right to reserve to the amount of his unmatured scrip; there is no doubt about that. But what is the effect of that reservation? Simply that the land should be withheld from market, until the time Hall should have completed his contract; that is all. If he does not complete his contract, the lands shall be restored to the market. And the statute of this State says expressly, as the gentlemen will see if they have any occasion to examine the statute, that the fee of the lands of this State, shall remain in the State until the patent is issued. Then I inquire, if the fee remains in the State until the patent is issued, and the patents were issued directly to Munroe and Hudson, whose lands did Barnard sell?

Then, again: Hall could reserve upon his unmatured scrip,—but suppose he never completed his contract; suppose he did not do the work; suppose he became a contractor, and his bondsmen were worthless; would anybody take any interest in those lands? You can see in a moment how slim their defense is here,—it has no foundation at all.

Hall had no interest in those lands any further than he had a right to have them reserved on his contract, and when he had completed his contract, if he did not sell his scrip he was entitled to have the lands patented up to him; but he had a right, under the rules of this office,—he had a right according to all the testimony in the case,—after his contract was completed, to sell his scrip, when it became matured? And when he sold his scrip, to whom did these lands belong. And that is not all.

Mr. Hall has been upon the stand, and he tells you in his testimony, when I called his attention to this very land, description by description, that only two forties of it had ever been reported to him; that the balance he had never had any report of, and they were not upon his land-book.

How was this? He tells you they were lands that Bush looked. Bush, as you will remember, was in the employ of Mr. Barnard and he was looking the lands. Barnard wrote a letter on the 7th of December, in which he tells Bush that he wants a thousand acres of pine land and three or four thousand acres, I think, of black ash land, and it seems from the testimony that he got them, and these were reserved by Barnard, and no doubt on Hall's contracts; in all, four thousand acres.

It seems that in 1871 there were five or six letters written, in which Barnard required Bush to look certain lands, giving him at one time over forty townships to look, and that Bush reported to him, and the lands were reserved, and he looked the very towns in which these lands were situated. They were put upon Mr. Hall's contract, and Hall had a report of only two forties of them. He had no knowledge they were there. They were lands that were looked by Bush, under the contract that Bush had with Barnard. They were looked under the contract with reference to which Barnard says in his letter, "Look these lands; I have an arrangement by which I can hold them until we can sell them, and make something out of them." That was the arrangement, and will this Court say under the testimony that Barnard was not dealing in State lands? On the 25th of April, Barnard sends Bush forty or fifty plats,—that is, forty or fifty townships which he desired him to look, and he says in that letter that he wants to get all the lands in the Alpena country. For whom? for Mr. Barnard. They were for himself and Mr. Bush, under the arrangement made between them.

It does not seem to me that it can be held for a moment that Mr. Barnard was not dealing in State lands under this testimony; and that he had an arrangement with Mr. Hall there

can be no doubt. Mr. Hall says he had frequent conversations with Mr. Barnard. And I want to call your attention to a particular point in the testimony, and that is this: Mr. Hall says he had a talk with Barnard, he thinks, in December. He was in the office, and had a talk with him in reference to reserving lands. Now, if you will turn to the letters that Barnard writes to Bush after that time, commencing with the letter of December 7, you will see that for every single letter written by Barnard to Bush, out of five or six letters, except one, he writes to Hall. He says, in the letter of December 7, he has an engagement with Mr. Hall, and he wr.tes other letters to Bush. He says in one of these letters that Hall will see Bush at Saginaw City, and make some arrangement, and that Hall will do something towards furnishing money to get these lands. And I want to call your attention to another significant fact in this testimony, and I challenge the attention of this Court to it, and that is this: Upon the cross-examination of Mr. Hall, he was compelled to say that the nineteen hundred and sixty acres of land in Tuscola county that was looked in 1871, was for Mr. Bush; he was to have those lands entire.

Those lands, to-day, are worth six thousand dollars, at the lowest estimate; so that Mr. Bush gets, as his share of the plunder, since the 7th of December, in this transaction, lands worth six thousand dollars. Hall says they are to be patented up upon Mr. Hall's scrip. Now, I heard a man, who was well acquainted with Mr. Hall,—a man of business and social standing,—say that if there was money to be made, Hall could digest cobble-stones; and is it reasonable to suppose that he would make Mr. Bush a present of $6,000, or was it because Mr. Bush was entitled to those lands under the arrangement with Barnard? Is it reasonable for this Court to suppose for one moment that Mr. Hall made Bush a present of nineteen hundred and sixty acres of land as his share of the plunder; and is it reasonable to suppose that Mr. Barnard did not have any interest in this transaction, when Mr. Hall says he had frequent talks

with Mr. Barnard? Barnard's letters show that the land was looked for him, for him and Bush together, and they were to divide the plunder. We cannot come to any other conclusion than this: that there was an arrangement made by which these lands were to be held upon Hall's contract, and Barnard was interested in them. What arrangement he may have made with him since,—whether he sold out to Hall or whether the lands are being held on Hall's contract,—we do not know, but it seems that nineteen hundred and sixty acres have been set off as Bush's share.

Then, we say, that their claim here, that the lands that Barnard sold were not the lands of the State, falls to the ground; for the reason, first, that if they were reserved upon Hall's contract, they could not be reserved except upon unmatured scrip, and that unmatured scrip cannot give any title. The party has no interest in the land, any further than the reservation, until he has completed his contract, and the title of the land remains in the State until that completion. I refer you to these things, to show you, conclusively, what the arrangement was between Barnard and Bush, and what the arrangement was between Hall and Barnard. So that the lands that were patented to Mr. Hudson, and to these other parties, were the lands of the State of Michigan, and Barnard received pay for them, and Barnard has not, according to the testimony, paid Hall anything for them. Potter does not say that he has paid him anything; Hall was upon the stand, and they dare not interrogate him as to whether Barnard was to pay him for the scrip. There has been nothing paid to Hall for any of these lands.

It would have been an easy matter, if Edmonds had not had knowledge of these transactions—the transactions of Barnard —to have gone upon the stand and so stated. It was a right he had. It has been claimed, from the commencement of this trial, that he wished to purge himself of these transactions. Why did he not do it, then, instead of getting up this subterfuge, which you can see, amounts to nothing; which tacitly

admits the fact that we charge, that the lands belonged to the State?

Now, I wish to call your attention to the land up in Gratiot county, that Mr. Clarke bought; and I think there is conclusive testimony here that the Commissioner had knowledge of this transaction. That they have no right to deal in lands is an admitted fact, and that the Commissioner has no right to allow them to deal in lands I suppose will not be denied. Now, it seems that Clarke and Van Dunham went up into Gratiot county to look at a certain piece of licensed land. They were gone several days. We think the Commissioner must have had knowledge of their absence. That they returned and made an application for this land, and upon that application we find the indorsement of Mr. Edmonds, as shown by his chief clerk. the indorsement being in his own handwriting, in which he directs the land to be patented with the scrip, and charged to Wm. A. Barnard & Co. Now, that shows that these clerks made their application directly to the Commissioner.

That is not all. Turn to the record of licensed land, and you will find that the entry is in Mr. Edmonds' handwriting, where he has entered the filing of the proofs of non-settlement; so there is, in that transaction, two entries in Edmonds' handwriting; which show that he must have had knowledge of this transaction; and we claim that it would hardly seem reasonable to suppose that these parties could go off and buy these lands and he make these entries, and yet not know what they were about. The piece of land that was sold to Dwinell, you will remember, out of which Mr. Van Dunham made twenty-five dollars, was a piece of land selected by Mr. Bush, and reserved. Mr. Barnard told him it was all right. Mr. Van Dunham tells him, when Marr comes after that, he could make some money out of it; he told him it was worth one thousand dollars. He went over to Mason, and got his wife's cousin to make an application, and Mr. Barnard tells Mr. Marr, when he comes here, that Mr. Van Dunham has gone to see the man, to see if he can get a title; and I suppose, that at that very time, Van Dunham had

gone over to Mason. Now, is it reasonable to suppose that Mr. Edmonds had no knowledge of this? The application, in this case, was made to Barnard, instead of to Van Dunham. It seems to me, that this transaction could not have happened in this office, without the Commissioner having knowledge of it.

We claim that the evidence shows conclusively that Barnard was a large dealer in lands, and that many of the clerks were dealing in lands, and that Edmonds must have had knowledge of the fact.

I desire to call your attention to Article III., in regard to these licensed lands, growing directly out of the scrip trade. This selling of licensed land arises from, and I think I shall be able to show this Court that Mr. Edmonds was interested in the sale of all of these lands, and that he had knowledge of all that was going on; that he made money out of every sale that was made; that he made money out of the sale to Bouck; that he made money out of the sale to Woolover; that he made money out of the sale to Conley, because they all bought their scrip of Wm. A. Barnard & Co. Now I wish to call your attention first to the changing of the rule,—and we think that is material in this case. We charge him with changing the rule in October. He admits in his answer that he changed the rule. It is an admitted fact that, prior to that time, licensed land could not be located except upon the filing of proof of non-settlement or abandonment; that is an admitted fact in the case. The evidence of Porter, shows that up to the first of June, it was the rule to require proofs in all cases, and we have no reason to suppose that there was any different rule until October; and we claim that under the law of 1865, there was no necessity at all of filing this three months' proof. They have claimed in cases where the lands were licensed after 1865 that the Commissioner had decided that no proof was required, and is it not a little strange,—is it not a little significant,—that when this rule was changed, that the very first purchase that was made was on the 19th day of October, and was made by Mr. Cornell, of Coldwater, in which Van Dun-

ham had an interest,—the confidential clerk of the Commissioner. Is it not strange that Cornell, living down at Coldwater, should find out about this matter before anybody living up in the northern part of the State should have any knowledge of it?

The records show the fact that there are not one quarter of the cases, in which licenses have been issued, where proof has been filed; while it was notorious that there are hundreds of men living on the land that had their homes, orchards, and improvements. Is it not a notorious fact that since the passage of this act of 1855, that these proofs of settlement and occupancy were not required? It was known in the office. Mr. Edmonds must have known it. Is it not a little significant that the rule should be changed in October, and that Cornell should pop down on poor Bouck the first thing,—that Van Dunham should have a half interest in the matter? Is it not strange that he did not put a notice in the newspaper to look out for these land-sharks, to the men that were living away back fifty or sixty miles in the wilderness, to beware, look out, and to file their proofs, for he was going to sell that land, if they did not do it, under the law of 1861? The very next sale is the 26th of October. Down Cornell pops on poor Woolover! Dunham has a half interest in this, also; and Edmonds and Barnard have an interest in the scrip. A few days afterwards they pop down on Conley; he had fifty acres chopped, fifteen acres improved, had built a frame house, and paid the balance, over and above the eighty dollars, into the Treasury. After the scrip was issued, and he came down here, Edmonds & Co. make ten dollars out of that transaction. It is a little significant that all these sales were made in the same way.

There is another thing I wish to call your attention to, right here: After Mr. Woolover's land was sold, and I came, as the evidence shows, to the office, to see if he could not get a title to the lands, and talked with Edmonds, as the evidence also

shows, when I desired to find out if there was not some one in that office that represented Cornell, out of the seventeen clerks in the office, he should escort me into the private office, and then bring out of the seventeen clerks, Mr Van Dunham, the very man that had a half interest in the Woolover land. How came he to light upon Van Dunham, if Van Dunham had no interest in the transaction? Why did he bring Van Dunham in there to consult with me in regard to compromising with poor Woolover, if he had no knowledge of this transaction?

May it please this Court, we find that the statute of this State provides that "In case of any sale made by mistake, or not in accordance with law, or obtained by fraud, the same shall be void; and no certificate of purchase issued thereon shall be of any effect; but the holder of any such certificate shall be required to surrender the same to the Commissioner, who shall thereupon refund the amount paid, in the like funds received by him on such certificate." Now, mark you, "In case of any sale made by mistake, or not in accordance with law, or obtained by fraud, the same shall be void."

By one of the Senators—Where is that?

Mr. Manager Huston—It is section 3871, 1st volume, Compiled Laws of 1871.

Now, I think there is a point, right here, upon which I can satisfy this Court, in one moment, that there is something rotten here, if I may be permitted to make use of that expression, and that Mr. Edmonds must have been interested in these transactions. You will remember that Mr. Bartholomew, the deputy treasurer, testifies that this certificate to Bouck was canceled because it was an erroneous sale. It was canceled, I suppose, under this statute I have read. If it was canceled under that statute, under what authority did Mr. Edmonds sell it to Cornell? He says he sold it because the three months' proof was not filed. The counsel says he had no alternative; when a party demanded those lands he must sell them. He had no discretion; the law of 1861 pressed upon him the imperative neces-

sity of selling these lands. Then I ask, what authority he had in buying those lands, and to take fifty dollars out of the Treasury and give it to Cornell? If Bouck had forfeited his claim under his license, then he had no rights under that license; and I ask by what authority he took that money out of the Treasury and gave it to Cornell, and by what authority he gave Bouck that forty acres of land? Has he any right to cancel a sale that was legal? If he assumes to cancel a sale, I submit it to any lawyer in this Court, if that sale to Cornell was legal, could he have canceled it and transferred that sale from Cornell to Bouck? If poor Bouck ever had any title to that land, he has it to-day. There can be no doubt about it. If he has got the title to that land, then Edmonds has taken fifty dollars out of the Treasury and made a present of it to Cornell, which he had no right to do. Mr. Conley wrote here to the Commissioner to know what he should do to keep his little homestead in the woods, where he had been laboring for five years. That letter was received the 19th day of December; it is officially stamped the 19th of December; on the 20th of December a certificate is issued to Hoyt for that land; on the 21st of December it is paid for by Hoyt, or by Barnard & Co., into the State Treasury, and upon the 22d day of December a patent is issued to Hoyt, Edmonds & Co. making ten dollars and fifty cents on the scrip, it being over forty acres, and Van Dunham gets a part of his one hundred and twenty-five dollars that he got of Hoyt. The patent is issued and delivered to Van Dunham as agent. Now, why was it that he could cancel Cornell's sale after the certificate was issued, after Cornell had been up there after poor Bouck? And if he could cancel that certificate, why did he not have the power to refuse in this case, before the certificate was issued? Why did he not have the authority to say to Mr. Hoyt, There is a man on that land; we have the notice in the office; we cannot sell this land,—there is a settler upon it? No, but when poor Bouck and his oxen are gone, when he had acted as agent, and they had taken Bouck's oxen away from him, he could cancel the

sale and pay fifty dollars out of the Treasury back to Cornell; but when Mr. Conley asks him "What shall I do to prove up my claim?" they know they can make their profit on their scrip, and they say to themselves, they will sell the land to Hoyt. They say nothing about that matter, although they claim there was a little something mysterious about it. They say nothing to Conley about it. There is something strange about that transaction, very strange, indeed; and you will readily come to the conclusion that if he had a right to cancel the Bouck certificate, he had certainly the right to withhold issuing a certificate to Mr. Hoyt; but if he withheld the certificate to Mr. Hoyt, the result would be, that they would not get their profit upon their scrip. That is one of the evils of this scrip trade; they would not get the profit that they were entitled to. Now, this is a matter that the evidence shows clearly here; there cannot be any doubt about it. It seems to me that the position of the Bouck case illustrates just this fact: that this Court must either come to the conclusion that he wrongfully sold the land to Cornell and corruptly sold it to him, or he fraudulently canceled the certificate and took the fifty dollars out of the Treasury. There can be no escape from that conclusion.

I desire to call your attention to the decision of the Supreme Court, that was read by the counsel for the respondent, in which he claims that he gathers the authority that the three months' proof in these cases must be filed: "The objections to the bill are numerous. It is not only defective for want of material matter, but is likewise defective for want of fullness, clearness, and directness of statement, in respect to the matter it shadows forth; the law requires the settler, as a condition upon which his right depends, to perform certain acts and refrain from others, and in case of disobedience, avoids his claim and authorizes the Commissioner of the Land Office to sell the land as other swamp lands are sold. It was necessary in any admissible view of the case, for the complainant to show in the bill, by statements of what he had done and abstained from doing, that he had substantially complied

with the requirements of the statutes under which he claims. The State having the right to prescribe the terms upon which it would allow settlement, and having prescribed the terms, it is incumbent upon one who bases his claim upon the law of settlement, to show that in all substantial particulars he has complied with these terms. This bill, however, contains no statement of such facts, nor does it show, even in a general way, that the provisions of the law have been observed."

Now, this decision refers to a case where the license was is sued before the statute of 1865. I think the bill shows that the license was issued in 1862. The party became a settler upon the land in 1862, and it shows further that this party fled —it being in the time of the rebellion—that he fled to Canada, and abandoned the land; and the question in regard to this three months' proof is not raised in the case. It simply says, that the party must have substantially complied with the statute, and I cannot believe for a moment that, after the party had made his improvements and complied with the statute and was on the land, and that, if another party bought the land, knowing that the settler was upon the land, I do not believe for a moment that the Supreme Court would have decided that settler could not hold the land because he had not sent in his three months' proof. And that is all there is of the case. The point, as you will see, in regard to the three months' proof, is not referred to in the case at all. Now, this statute of 1865 provides that "The People of the State of Michigan enact, that any swamp land licensed under and by virtue of act number two hundred and twenty-nine of the Session Laws of eighteen hundred and fifty-nine, and all acts amendatory thereto, from and after the expiration of five years from the date of the license, may be sold by the Commissioner of the State Land Office the same as other swamp lands are now sold: *Provided*, It shall appear from the affidavit of the supervisor, or two responsible citizens of the township in which the lands are situated, that no settlement has been made by the original licensee, as contemplated in the act licensing the same; that said li-

censee has no valuable improvements thereon; also, that such licensee cannot claim exemption under the provisions of section eighty-seven of act number sixteen of the Session Laws of eighteen hundred and sixty-two."

Now, this refers to all licensed land, that it may be sold, —shall be sold. The word "may" means the same thing in this act,—after five years, all licensed land, providing there has been no settlement upon it. Now, we apprehend, that that provision applies to every license issued after the act of 1865, and that the proviso is, that it cannot be sold without this proof,—the proof of non-settlement in this case; and where the land had been settled, or where proof of settlement had been filed, which would be the same thing to the office, then there should be the evidence of abandonment; and it seems to me that there can be no other construction upon this statute, except that it applies to all cases of licensed land, at least where lands have been licensed since the passage of this act, and that there is no exception in it in regard to three months' proof at all, as you will see by examining the statute.

The Court here took an informal recess for five minutes.

AFTER RECESS.

Mr. Manager Huston resumed his argument as follows:

Mr. President and Senators: At the time the Court took a recess, I was speaking with regard to this statute of 1865. I do not think it worth while to spend any more time upon that statute than to simply remark that I understand the rule to be in court in reference to a matter of that kind, even if the law of 1861 applied,—that if the law was substantially complied with, as it was complied with in all these cases, and the parties were in possession, and other parties purchased the land with knowledge of the fact that they were in possession, that the court would hold that the party in possession would be entitled to the land.

The evidence shows, in this case, that Cornell went down to Shiawassee, examined this land, found that Bouck was in pos-

session before he purchased the land. He went up to Tuscola county, and he found Woolover was in possession before he bought that land. Mr. Hoyt knew that Conley was in possession before he bought that land, and that these parties had been on their land,—that they had gone on there in good faith; that they had made these improvements under the law; that they had put up their buildings; that they had complied with the act of Congress in draining the land; that they had done everything that was material to the State; that they had, so far as it would cost them anything, so far as the interest of the State was concerned, they complied substantially, by making their improvements, and they had purchased their lands by those improvements, and by living upon their lands over five years,—all three of them; and that they were entitled to a patent from the State.

But can it be claimed—will this Court, by their vote, say—that Conley was not entitled to a patent for his land after he had been on there the five years, and after he had notified the Commissioner of the Land Office before any sale was made to Mr. Hoyt? Now, it will be claimed that Hoyt applied for these lands upon the fourteenth. His application seems to have been dated on that day, and it is in the handwriting of Mr. Van Dunham. So it shows that one of the clerks of the office drew up and made the application, and the patent was issued and delivered on the 22d, three days after Conley's letter was received. The patent was made and delivered to Van Dunham for Hoyt. Now, I say, will this Court say by their vote upon this Article, that Conley, under these circumstances, was not entitled to his patent after he had done what he had done upon that land,—after he had made his land, as he swears, worth one thousand dollars,—Mr. Woolover swears that his was worth one thousand dollars,—that they were not under the law of 1865 or 1861 entitled to their patents from the State, and that these parties were not fraudulent purchasers? We claim that they purchased, knowing full well what the rights of these parties were, and that they had spent their time and their labor there

to make them homes, and they were entitled to their patents for their lands, and they ought to have had them. And especially when you take into consideration the fact that I have called your attention to, that the Commissioner claimed and exercised the right to cancel the sale to Cornell, after Bouck had lost his oxen.

I understand, incidentally, that my brother Shipman has taken Shakspeare, and all the other poets, out of the Library, and I submit, whether he can prove by Shakspeare, that Mr. Edmonds had a right to cancel, in one case, which was not his duty in the other case,—to withhold the certificate from Hoyt, and issue it to Conley. I do not think Shakspeare knew a great deal about swamp land.

Mr. Cummings, you will remember, testified that he came up here and saw the Commissioner. He applied to the Commissioner, to see if he could not get a title for Mr. Bouck's land. He felt interested for Bouck, because he was a poor man. Cornell says that there was one of Bouck's neighbors desired to have him purchase the land, because Bouck was not a very good neighbor,—he wanted to get him out of the neighborhood. Now, you will place just as much dependence on Cornell's testimony as you choose; but whether that was so or not, does not matter. I do not believe that this Court will place a great deal of confidence in the testimony of any witness that would do what Cornell did in this case. A man that would go into a party's house, as Cornell did into Bouck's house, and there get Bouck's certificate of license, and get the description, and see whether the minutes he had compared with Bouck's to be sure that he was making no mistake, for the purpose of buying Bouck's home,—I say I do not believe that this Court will place a great deal of stress upon the testimony of that kind of a man. He shows that he had no compunctions of conscience in robbing a poor man of his home. You will remember that Cummings testified when he called upon the Commissioner, that he said to the Commissioner that he would have no objection to paying thirty or forty dollars if this

matter could be arranged, and that the Commissioner made no objection to the proposition. He said he thought it was necessary to "grease the wheels a little." And he made the proposition, and the Commissioner said he would see Cornell, and see what arrangement could be made. And after he had seen Cornell, he writes to Cummings that he had seen Cornell, and that the certificate would be canceled if the party would pay $165, and he would refund the $50, making it only $115 that Bouck would have to pay for his land. But it seems it was not arranged in that way, and Bouck had to give up the only team he had; and after he had done this, Edmonds canceled the certificate. If their position is true, he had no right to do it, and I submit to this Court that here is a fraud that you cannot escape. You must hold, either the sale was corrupt or the cancelation was corrupt. He had no authority and could not transfer the title from Cornell to the State. He is an officer of the State to sell land. He is not an officer of the State to buy land. He could not buy the title of Cornell. He could not transfer it from Cornell to the State, and from the State to Bouck, and Shakspeare will not help Mr. Shipman out of that dilemma.

I do not know what the statement of Mr. Manager Cochrane may have been with reference to the Fourth Article,—the conspiracy with Mr. Patrick,—but we make no claim under that Article.

I desire to call your attention to Article V., with regard to dealing in scrip; and my first proposition in regard to that Article is,—I think the testimony shows it conclusively, as I can show to the Court,—that the Commissioner, when he first came to the office, in the first or second week of his term, made a corrupt bargain with Mr. Porter; made a bargain that he had no right to make; that he then and there agreed with Porter that he should conduct the business in scrip, the same as it had been conducted during the previous administration; that Mr. Porter, according to his testimony, explained to him

fully,—as you will see by an examination of his evidence,—that it was the custom to receive money for lands, retain the money, put it in an envelope, lay it one side, and enter up the land with scrip. Now, if he made such a bargain, although there may not have been any land entered under that contract that he entered into with his Deputy, we claim that it was corruption; that he made a contract by which he authorized Porter, if he received money for land, to enter the land with scrip and keep the money. Now, I desire to call your attention to the statute upon that subject. Section 3942 of the Compiled Laws of 1871 is as follows:

"All moneys heretofore received, and all moneys hereafter received, from the sales of said swamp lands donated by the aforesaid act of Congress, after deducting the expenses of sales, fifty per cent shall be denominated a primary school fund, and the interest thereof, at five per centum per annum, shall be appropriated and distributed in like manner as the primary school fund of this State; and fifty per cent shall be denominated a swamp land fund, and the interest thereof, at five per centum, shall be paid over annually to the order of the board of supervisors of the several counties, in the proportion in which the same is received from the sales in said counties respectively, to be used, as said board shall direct, in draining and reclaiming swamp lands in said county; and all the moneys received on such sales as aforesaid, after deducting the expenses as aforesaid, shall be used and applied to the payment of the outstanding indebtedness of the State, in the order in which it shall fall due."

Now, we say he made a corrupt bargain, in violation of that statute. If the evidence convinces you that he made any such bargain as I have stated, in regard to scrip, it was in violation of that statute; a violation by which, if money was sent here to locate land, and the Commissioner paid for it in scrip, he thus defrauded the funds referred to (the funds for drainage and the primary school fund), out of the amount sent. If one hundred dollars was sent here for the purpose of purchasing

land and he entered the land with scrip, he defrauded the primary school fund of fifty dollars, and he defrauded the drainage fund of the other fifty dollars, thus taking so much money out of the Treasury that should have been applied upon the payment of the public debt. Now, he made such a bargain,—such is the testimony. Counsel say that the Commissioner, according to Porter's own testimony, commanded Porter to desist from that practice; but Porter says that, according to his recollection, the time they had that conversation was after the first of June; it was after the time he ceased to be Deputy in the office. But I wish to call your attention to the records in the case, and if you will look on page 67, at the answer of the Commissioner, you will find this significant fact, that he says that he dismissed his Deputy and that this practice then ceased. He seeks to justify himself. He admits by his own answer that it was the practice, and that it ceased upon the dismissal of his Deputy, so that it is an admitted fact, in this case, that that was the practice up to the time that the Deputy was dismissed, on the first of June. We then say that the contract was fraudulent; but we have the evidence of Porter that there were cases of that kind, according to his own recollection, and we have the admission of the Commissioner in his answer that the practice did not cease until he dismissed his Deputy.

We have another piece of testimony that I desire to call your attention to, in connection with this point,—that is, the testimony of Coffron. Counsel who presented the case for the respondent, yesterday said that he was glad that Coffron was here, and that they have his testimony, and he eulogizes the honesty and integrity of the Commissioner because he sent the seventeen dollars back to Mr. Coffron; that he only took out of it his percentage upon the scrip.

Now, the evidence is, that Coffron sent to the Commissioner after the time that Mr. Porter was discharged, when Mr. Barnard was the Deputy, and the fact that Mr. Edmonds had knowledge of this, I submit the argument of counsel shows, because he claims that Mr. Edmonds sent this money back,

and that it was to his credit; then we say this was after the time that Mr. Barnard was Deputy, and that Mr. Edmonds had knowledge of this fact; but they say that because this forty acres was fractional, and as Coffron did not send money enough, they assume to enter this land with scrip, and the money, over and above the par value of the scrip, was returned him in a check for the amount. Now, under what authority did the Commissioner do that? What right had he to do that? What law authorises him to do it? Was it his duty when he received this $50, to buy forty acres, to enter it in scrip? Is there any law of this State that gave him the right to change the money into scrip? Why, they say that was fractional. What was the fraction? Thirty-hundredths. The fraction cost thirty seven cents; thirty-seven cents the fraction cost. Now, how easy a matter it would have been for the Commissioner to have notified Mr. Coffron that he had not sent money enough, and that he would have to send thirty-seven cents more. But, whether he chose to do that, or not, if I, or any one of you, sent forty dollars or fifty dollars, or five hundred dollars here, to buy a tract of land, the Commissioner has no right, his Deputy has no right, because the amount falls a few cents short of the amount necessary to pay for the land we want, to enter that land with scrip, and retain the money. The Commissioner defrauds those funds, and there is no escape from the conclusion. Suppose, for illustration, that a person had sent ten thousand dollars to the Commissioner to buy a tract of land and the tract came to ten thousand dollars and ten cents. Would any one in this Court claim that because he could make a thousand dollars, being ten per cent on his scrip, that he would have a right to enter the land, and pay in ten thousand dollars in scrip and pocket the nine thousand dollars in money and send a thousand dollars back to the party that sent it, making his thousand dollars profit? If he could do it in the Coffron case, he could do in the other. There can be no escape from the conclusion. It makes no difference what the amount of money was,

whether it was fifty dollars or fifty thousand,—the conclusion is the same. Suppose the fraction had been instead of thirty one-hundredths, five one-hundredths, which would have taken six cents. Would not it have been the same? And suppose the fraction, as it is in some cases, had been one-hundredth, and it had taken a cent and one-eighth to have paid for it more than the amount of money sent. Could he have done this thing? If he could have done it in this case he could have done it in the case of a thousand dollars, and there is no escape from this conclusion; and I say that he had no authority to do anything of the kind. When he did that, he violated the law of the State, and he defrauded the State under this statute, and there is no escape from it; and we say that that evidence shows that he violated this statute in this case. If I send money here to buy land and do not send enough, that is a fault of mine. I have not made the Commissioner of the Land Office my agent to transact my business. The people of the State of Michigan have not made him Mr. Coffron's agent to buy land for scrip, when Coffron sends money. Not at all: nor when anybody else sends money. Then we say, that under Coffron's testimony, independent of Porter's testimony, and independent of his own admission, you cannot escape the conclusion that he violated the law in regard to this matter, and that you must hold him to be guilty of the charges brought against him in this Fifth Article. I take the position, gentlemen, that it is corrupt conduct in office for the Commissioner to deal in scrip,—that he has no right to deal in scrip,—that no public officer has a right to engage in any business, when he assumes the duties of a public officer, that is injurious to the public. I know that I am touching a question now, in regard to which, perhaps, some Senators may differ with me; for I am aware that the trade in scrip has been, to a certain extent, indorsed, or considered allowable, by at least a portion of the people of this State; but, that it is the father of numerous evils, there can be no doubt. I claim that no officer has a right to enter into any business in con-

nection with his office, that is injurious to the people of the State, and that the Commissioner, when he enters into the practice of dealing in scrip, enters into a business that he has no right to engage in, and the whole tendency of which is bad. It is just like the fugitive slave law in its tendencies. You all remember that the fugitive slave law provided that if the justice remanded the fugitive to service he was to have ten dollars, and if he did not, he was to have but five dollars. If the Commissioner gave Mr. Conley his land, he did not get anything; if he gave it to Mr. Hoyt he got ten dollars and a half. That is one of the evils that arise from this practice. Mr. B. applies for five thousand acres of land, and the legal rights are in his favor. He applies for five thousand dollars' worth of land. Mr. A. applies for the same land. Mr. B. has the scrip to buy this land with. Mr. A. when he gets land is going to buy the scrip of William A. Barnard & Co. If they let Mr. A. have the land, William A. Barnard & Co. make five thousand dollars. If they let Mr. B. have the land, they do not make anything. That is a direct bribe, and the arrangement has been to draw in all the scrip. They say that the Land Office is the headquarters of all these contractors. The Commissioner deals in scrip, and it is brought in there; and the evils arising out of this dealing, as I say, are numerous, and it must necessarily be so; because whenever sales can be made, whether it is licensed land or other land, and paid for in their scrip, this is a direct inducement, a direct bribe, for the Commissioner to decide, especially, where there are contending parties, in favor of the party that will buy the scrip of them; and the practice has become a nefarious one. It is against public interest, it is against the public service, and ought not to be allowed for a moment; and I do not believe to-day that Woolover's land would have been sold, that Conley's land would have been sold, that Bouck's land would have been sold, if it had not been for that practice. It seems to me that the Court must come to this conclusion, so far as this buying and selling of scrip is concerned, although

counsel claims that if he was a banker somewhere else, he would have a right to engage in this business. It seems to me that as regards the Commissioner, who has the control of the selling of these lands, that you must come to the conclusion, readily, that it is a practice that ought not to be allowed, and it must necessarily lead to corruption.

There is another evil I wish to call your attention to, and the evidence foreshadows it: This has been the means of taking thousands and tens of thousands of dollars out of the school fund, and out of the drainage fund; and you can accept no other conclusion, you can expect no other result, if the Commissioner is allowed to deal in scrip, but that extra pains will be taken to call the attention of everybody that is buying land, to the fact that they can get their lands cheaper by buying their scrip of them, or allowing them to enter it up in scrip. The question has been asked here, Why was Mr. Canfield brought here from Niagara Falls? It was for the very reason, he was a man residing out of this State; he did not know that there was any such thing as swamp land scrip; he never had any knowledge of it in his life, until he was told by the Deputy Commissioner that he could get his land cheaper by buying the scrip; and he buys his land at four dollars, and some at two dollars,—and he bought the scrip of them. That is the direct tendency; and is it to be presumed that if a man should come into that office, from another State, that had no knowledge of this scrip, that they would not notify him of this fact? And if they did notify him, I submit that it is wrong. When a man comes into the Commissioner's office, as Mr. Canfield did, to buy land, and he expects to pay the money for the land, it is just the same as if he sent the money by mail. If he goes there to buy a thousand dollars' worth of land, and expects to pay his thousand dollars into the Treasury for it, the primary school fund would have five hundred dollars, and the drainage fund five hundred dollars; and Mr. Edmonds says to him, Here, we can sell you the scrip and you can take the land with that.

He thus defrauds those funds. He gives him a notice that he has no right to give him, and he violates his duty as a public officer. So we say that the evidence shows that he should be convicted under this Article V. The evidence of Porter is that there were some cases of this kind. The evidence of Coffron is direct upon that point, and we say that the practice, outside of the purchase of land with scrip when money is sent, shows that this ought not to be allowed, and that it is a corrupt practice.

I call your attention to Article VI. I will read the article.

"ARTICLE VI.

"That said Charles A. Edmonds, Commissioner of the State Land Office, during his official term as such Commissioner, to wit: from about the first day of January, 1871, to the 28th day of March, 1872, unmindful of the high and responsible duties of his office, of his oath of office, and disregarding the rights of the people of this State, and for the corrupt and unlawful purpose of personal benefit and gain, did appoint and keep in his office, as clerks, certain men of dissolute habits and character, and unworthy the high trust and confidence necessarily required of men in their positions, and did also allow his clerks in office, in violation of the laws of this State, to purchase, directly or indirectly, from the State, lands for sale in said Land Office, and to be interested in purchases made in the name of others, directly and indirectly, and to traffic, and corruptly sell and get unlawful gain, in the sale of valuable information contained in such office, within their knowledge as such clerks, and to act as the agents, for reward, of certain land-dealers, in entering land, thus giving such dealers an undue advantage over others seeking the entry of lands at said office.

"And the said Charles A. Edmonds, Commissioner of the State Land Office, was thus, then, and there guilty of corrupt conduct in office, and did commit a misdemeanor in office."

Now, the counsel says, in speaking of this Article, that men

who get drunk very frequently, or generally,—I don't know as I have the term exactly,—are the most scrupulous in regard to their dealings in reference to honesty; and I must confess I was a little surprised at the remarks of the counsel upon this Article, and the eulogy he paid to that class of men. I do not believe his position is correct. It may be that there are cases where parties are in the habit of drinking intoxicating liquors to excess,—where men of dissolute habits as named in this Article, in their dealing with their fellow men are honest; but that that is the rule, and that the Commissioner had a right to treat it as the rule, I deny. That men like Van Dunham, that he knew was away from his office day after day, as the evidence shows,—that men who were before the courts for being drunk and disorderly,—that a man who was in the habit of visiting houses of ill-fame,—and if there is anything on the face of God's earth that will make a man disregard his duties, make him untrustworthy, where he has to handle public moneys, it is running to these places,—that men of this stamp should be retained in the office, is an outrage upon the people of this State. I deny the position, and I claim that, as a general rule, such men are not to be trusted, and that the Commissioner had knowledge of these facts. He says that the Legislature have been in the habit of electing men of that character. I don't know whether that is so or not; but I say this, so far as my knowledge goes, no man of that character ever got my vote, or ever will. If that is the practice, if that is to be the course commended, if this Court is to be asked to indorse the doctrine of the gentleman, then I want to know it; and if that is not to be the practice, if it is not for the interest of the State, or if that has been the practice heretofore, I think it is a good time for the Senate of the State of Michigan to make a record on that question. I think it is a good time for the people of the State of Michigan to say that they do not believe and do not indorse that doctrine. I do not believe that this Court will endorse any such doctrine. I don't believe that

any of you believe what he claims. He says that when a merchant, or a banker, or any one of you, hire a man to work, you do not ask the question. If there is a banker in the Senate,—I don't know whether there is or not,—I don't believe if he is a prudent man, and looks after his business, that he would, a single day, trust Van Dunham or Clarke. A man that lives in daily violation of the law, a man that would steal land from the State of Michigan, would steal money from a bank, or from his employer. The idea that a man would keep in his office, cashiers or clerks, handling other folks' money, that were in the habit of becoming intoxicated, or visiting houses of ill-fame, is monstrous. I do not believe any of you would trust them at all. I do not believe it is the duty of the Commissioner to trust any such men, and he must have knowledge of such facts.

They say it was the twenty-fourth of April,—they were particular in fixing this time,—they had such a drunk at the Chapman House, because they wanted to fix it before the act took effect. They say it was in April, 1871. Some of their witnesses say he was not drunk, but he was there to get Van Dunham and Griswold to bed. Then we say he had knowledge of their habits over a year ago, even if he did not have knowledge of that fact before he put them in office at all. But that is not all. Down here at the Lansing House, according to the testimony, the Commissioner of the Land Office of the State of Michigan was in a room with Van Dunham, Clarke, and Bowen, and there, in that room, they were drinking champagne until Bowen and Clarke were so drunk that they did not know where they were going on the streets, and could not tell what they did do. They were intoxicated and yet there is no pretense that the Commissioner tried to stop it. He was one of the party. Suppose the Governor of the State of Michigan should come to Lansing, and take the Auditor General—if he could—and the Secretary of State, and various other officers to a room in the Lansing House, and they should all get drunk there, the same as Mr. Edmonds did

with his clerks: Would that be considered a light matter? Would it not be considered that the Governor was disgracing his position as Governor of the State of Michigan? Would you not all come to that conclusion at once? And the idea, to me, is monstrous, for a State officer, having young men under his control and in his employ, whose characters are not yet fully formed,—that he should take them and be with them,—they looking up to him as one of the trusted officers of this noble State,—that he should drink with them until he got them so drunk they did not know what they were about,—until they became, as Clark testified, "unconscious." It seems to me that the example is one that should be denounced and branded by this Court as infamous.

That is not all. This Commissioner, according to the testimony of Mr. Baker,—and this matter is not confined to the Chapman House,—was seen to seen to come from that house of ill-fame that has been mentioned here, with one of his clerks—a clerk who dare not swear on the stand whether he had been there or not. He claimed his right to not testify, because it would disgrace him. If he had not been there, he would have said, No. He said the Commissioner was not there; Baker says he was there. Mr. McGowan says you cannot believe Mr. Baker. There have been four respectable witnesses who swear that they have never heard his reputation questioned. Now, if a person's reputation is not questioned, the presumption is that it is good. You may select the best men in the community where you reside, and you will find that they have never been questioned; and if you put a party on the stand to testify that he never heard his character questioned, that is the best evidence that his reputation—that his character—is good. That is the evidence we always get on these questions. And how is it? Mr. Baker says he went down there about ten o'clock. He had a man with him—the under-sheriff of Eaton county. And when he saw the Commissioner and Griswold come out of the house, he said to that man, "There goes our Land Commissioner, and one of his

clerks, Mr. Griswold." Now, how did this happen, if it was not true? That was nearly a year ago. Why should Baker make such a statement? Did he expect that Edmonds was to be put on trial at that time? Did he expect that the Commissioner would be impeached? Was he preparing testimony? Not at all. Bosworth says he made that statement. Here Baker's testimony is corroborated. Then, I say, we have the evidence, not only that he was with his clerks at the Lansing House and the Chapman House, at the drunken carousals, but we have the evidence of that one case, that he had frequented a house of ill-fame; and, I say, it is monstrous to say that this Court would uphold one of the trusted officers of this State under such a state of facts. He has no right to expect it at your hands.

I desire now to call your attention to the testimony of Mr. Alderman, and to this article in reference to gratuities, and see whether there was any violation of the law in that matter. Section 3872, Compiled Laws '71, reads as follows:

"The said Commissioner shall, whenever it satisfactorily appears that the chief value of any parcel of land consists of pine, or other timber, and that, in his opinion, the interest of the State will not be secured by a compliance with the terms of payment prescribed in the second section of this act, require of the purchaser fifty per centum of the purchase money to be paid at the time of purchase, and such security for the payment of the balance of the principal, at any time thereafter, as in his judgment will secure the respective funds against loss; or he may, in his discretion, require full payment for the same."

I wish, while I am right here, to call the attention of the Court to one thing that I omitted in reference to lands on 22 N., 2 W. You will remember that Allison applied for those lands, as I have stated, and that the evidence shows that he applied on the 30th of April, and that there had been no affidavit filed with regard to those lands until the 1st of May; that then Mr. Thomas filed an affidavit that those lands were

not chiefly valuable for timber, and a certificate was issued for 160 acres of land.

Now, gentlemen living in the northern part of the State know that this is the fact, that it is very frequently so these, that lands are purchased in that way that are valuable for pine, and the pine is taken off, and nothing more is paid on the land, and it is allowed to go back to the State, where they can get it upon quarter payment; and that where lands are purchased, as they frequently are, for the timber, unscrupulous men, land-dealers, lumbermen, very frequently manage if they can,—and the Commissioner must necessarily have knowledge of that matter, that they purchase lands upon quarter payment for the purpose of getting the timber off, and let the lands go back upon the State. They do not want the land. They buy it for the purpose of timber, and if they can manage in any way to get the land, they take off the timber and let the land revert back to the State. They get it for a dollar an acre, instead of paying four dollars.

Now, let me challenge your attention, for a moment, to the testimony of Alderman, and also to the testimony of Lawrence and Hitchings, and to those five dollars for a cigar, and let us see what this testimony amounts to. Alderman says that he applied at the Land Office sometime in the fall, I think, for this land upon Higgin's Lake, and that he was notified, he thinks, by Robinson, that he could not have that land without filing the affidavit. The counsel says that Alderman's testimony is not to be relied upon, because he said that Goddard wrote up here in his letter, "For God's sake do something for a poor fellow!" There is a significant fact in Alderman's testimony. If Alderman had not seen this land, or if he did not believe this land to be mainly valuable for timber, why did he not make that affidavit, if he wanted the land? Why did he go down and tell Goddard that he could not get this land without making the affidavit. He says the timber was principally upon 15 acres of the land.

Every lumberman in this State knows, I know, and every man who has lived in the northern part of the State knows, that, very frequently, land that is only valuable for its timber has that timber perhaps on only fifteen acres of land, and it has no other value at all. Now, if Alderman wanted this land, and if he did not believe it valuable for timber, he would have made an affidavit. If you will refer to the testimony of Lawrence, Hitchings, and Waterbury, you will find this to be the fact, that every one of them swore that the only value of that land was its timber. The counsel misstated the testimony. I do not say he misstated it intentionally, but he said they swore that it was not valuable for timber,—that there was no value in it at all;—but every one of them testified that its only value was in its timber. Now, what is the statute?—"If it is chiefly valuable for lumber." It makes no difference whether it is worth a hundred dollars or worth five hundred, if it is chiefly valuable for lumber the Commissioner has no right to sell it. Did Waterbury say it was valuable for farming purposes? He said it was not,—there was no value in the land. Lawrence and Hitchings said the same thing. Then, we say that the evidence shows that the certificate was issued for this land, in which the value consisted only in its timber; and Mr. Hitchings only went on one direct line with reference to this land. He might not have seen the timber. Lawrence might not have seen the timber. It is patent upon the face of it, that Alderman supposed it was valuable for timber, or he would have made the affidavit. Now he goes down to Saginaw, and tells Goddard that he cannot get this land. Alderman considered the land worth $1,000, if I remember rightly. Goddard said he could get the land, and he wrote this letter that has been introduced in evidence. He inclosed the amount for the quarter payment, and he inclosed the five dollars to buy a cigar for New Year's, as the counsel says, and that is what he says in the letter.

Now, I submit to this Court, whether, under this state of facts, that in this case the Commissioner, or Mr. Barnard, as

the case may be, issued this certificate in consideration of this bribe? It was only two or three days before that Alderman was here. Why did he not give him the certificate then, without the affidavit?

So you see here it is proven; and if they will do it in one case they will do it in a thousand. You have this fact staring you right in the face, that for a small amount of money, these lands that are mainly valuable for the timber, can be purchased, if there is a little gratuity goes into the pocket of the Deputy or the Commissioner. Do you suppose there would have been any difference, if that land had been worth five thousand dollars for its timber? What means did the Commissioner take to ascertain the value of this land? They say that Ortman told them,—Ortman had never seen the land; that he had had somebody up to look at the land. Is that the kind of information that the Commissioner proposes to take with regard to these matters? Why, it is the easiest thing in the world, then, for a man to show that he has no compunctions of conscience, and he wants to get land upon a quarter payment,—that "A. said that land was not valuable for timber, and I want to get it,"—and he gets it upon the quarter payment, by making that statement to the Commissioner,—there is no proof of it.

There is another significant fact. Goddard is a lumberman, Alderman is a lumberman, and they wanted this land for the lumber,—nothing else. What did Alderman and Goddard want of this land? They were partners. Did they want it for farming purposes? For what purpose did they propose to invest their money in it? Why did they send this fifty-nine dollars here for this land, if it was of no value? They showed their faith in this transaction, by an investment of money,—not only for the quarter payment of the land, but for the five-dollar cigar that Barnard was to smoke on New Year's day.

They say that Goddard sent money to Barnard another time and he returned it. Who knows whether he returned it? What proof have you of that? There is no evidence given us of that kind. There may be an indorsement in Barnard's

handwriting that the price of these was returned; but that would be no evidence. It was an indorsement he might have made a day before that paper was brought in. A man who will violate the laws of this State from day to day for a year, would not scruple to make a false entry upon paper, any more than when he receives such a letter as that received from Conley, asking him if he would inform him what it was necessary for him to do in regard to his land. He would not scruple to make a false entry if it was going to put a few dollars into his pocket. We say that, if the evidence upon this matter is closely examined, we believe there is no gentlemen within the hearing of my voice who is not satisfied that it was that five dollars that convinced Barnard that there was no pine upon that land, and that Goddard wanted it for a farm. They knew Goddard was a lumberman. They knew all about that. They knew he wanted it for the timber. They knew he was not buying it for any other purpose. They knew he was dealing in timber himself, and buying it solely for timber. But that five dollars convinced them that there was no timber on it; and they sold it without any affidavit, and took the quarter payment, and that is all the State of Michigan will ever get. No matter whether it was worth five hundred, or a thousand, or three dollars an acre, the State of Michigan will never receive any more, as they scarcely ever do in any of these cases.

It is claimed that the Commissioner issued rules. Now, it is a very easy matter, in order to make the thing appear fair, to make rules and spread them upon the table. There is one thing very evident, that if he did issue rules, if he did give them to his clerks, and they did read them, that they disregarded them, and that they had no force or effect upon the employes of that office; because that shows that Barnard acted as the agent of Hall, and has acted as the agent of Hall ever since 1870. It is conclusive.

And now I submit, whether this is not a nefarious practice in this office,—the idea that a man should be allowed to employ the Deputy of that office, to act as his agent, to look over re-

serves, investigate the books, make up the lists of lands and hand them over to his other agent, Potter,—who was in the same office,—to have them reserved? And as he says, with regard to the order he made on Smith's land, he had no knowledge of it until January, and it was made in November. His attention was never called to it. These arrangements were entered into, and Barnard has acted as his agent; and it cannot be believed that he was acting there without any special compensation. He was his agent right along, and is his agent, I suppose, to-day, for the purpose of having lands reserved; and there can be no question, but that he was agent for the purpose of receiving pay. You see that he has had pay. Here has been description after description of land that he has sold, that Barnard has paid nothing for, and it is not, I suppose, expected that he will pay anything to Hall for them. It is claimed that he borrowed scrip of Hall, but he has never settled with Hall for this scrip, and Hall does not expect that he will settle with him.

I desire to call your attention to another point in the testimony, relative to this reception of gratuities: and that is the testimony of Mr. Robinson, so far as it bears upon the Commissioner. It seems that Robinson acts as the agent or the clerk, in keeping the books for Preston & Co.; and that Preston & Co. are in the habit of paying to the Commissioner fifty dollars a year, and that he sends this in a draft to the Commissioner, and the Commissioner passes it over to Robinson. Now, I submit that if the Commissioner allows this to be done,—if he allows Preston & Co., or any other party to send him money for services of that kind, and passes it over to the clerks, whether he does not, by that act, say to the clerks, that you are authorized to enter into these kind of speculations yourselves? How can he expect that, if he permits Robinson to receive fifty dollars a year from Preston, that Clarke, Griswold, and Van Dunham, and all the other clerks, if they have an opportunity to receive money in the same way, will not do it?

And they will also receive money for the purpose of reserving lands, as well as for other purposes. Here is a direct indorsement, by the Commissioner, of this transaction. He gives the money to Robinson; it is sent to him. It cannot be claimed that he does not have knowledge of the transaction, under these circumstances.

With regard to the sale of valuable information under this Article,—you know what the testimony is. Counsel admit that the one hundred and twenty-five dollars that Van Dunham received, might be classed as selling valuable information; but they claim that the Commissioner had no knowledge of this transaction. Now, I submit to this Court whether it is to be presumed that the Commissioner had no knowledge of this transaction, if these transactions were not very numerous, and especially when you take into consideration that Van Dunham was interested in the purchase of these licensed lands, for which he furnished the information, and for which he received one hundred and twenty-five dollars; and the Commissioner, as I have stated here, when I called at the office introduced Van Dunham to me,—the man that was selling this information in regard to licensed land,—the man that issued these plats and did not pay the money into the Treasury,—who furnished Cornell plats, who furnished Hoyt and Draper plats of a large number of townships, yet did not pay the money over. If it had been paid over, why have they not produced their books and shown that fact to you? I say that the fact of Van Dunham's having these transactions, and his directing me to Van Dunham, is to my mind conclusive evidence that he had knowledge of this transaction.

Now, I wish to call your attention to another point of the testimony, right here, and that is the evidence of Mr. Bush. Mr. Bush says that Barnard sent him forty or fifty plats in May, 1871. They have a book in that office, they say, known as the book of fees, upon which every item is entered, and the name of the person who paid it. Why have they not introduced that book in evidence? Why have they not shown, as

they might have shown, either by the evidence of Mr. Barnard, by putting him upon the stand, or by the evidence of the Commissioner, by his going upon the stand, or by producing the book in court, that that money has not been paid into the Treasury. Can it be possible, gentlemen, that this Commissioner was ignorant of the character of Barnard when he made him his Deputy. Can it be possible that over ten thousand acres of land, as you will see by the figures, have been reserved from the seventh of December up to the first of June by Barnard, for his own interest, —that that could be carried on without the Commissioner's knowledge,—that he could have been ignorant of that fact when he made him his Deputy? It seems to me utterly impossible, if the Commissioner is a competent man and was looking about him. The counsel claim that he was ignorant of his duties. I know they claim that he lived in Coldwater and had no knowledge of Northern Michigan. I know they will put in the plea of ignorance here, but the law tells me that ignorance is no plea at all; that every man is presumed to know the law, and every public officer is presumed to know his duty, and that he cannot come in and ask this Court to excuse him on account of ignorance; and he can be excused on no other ground. If he had his eyes about him, he must have known what was going on; he must have known that Barnard was buying dogs and horses; he must have known of these transactions, and I have no doubt he did know it when he made Barnard his Deputy. He, perhaps, thought he could make more money out of Barnard than he could out of Porter. Porter did not divide with him along at the last.

In regard to these clerks, whom we claim were clerks of dissolute habits, as the testimony shows, the counsel say that they were men of good standing in the community where they live. Is there any evidence of that kind? It seems to me to be a presumption. We have simply the counsel's word for it. But I say this, gentlemen: If they were men of good standing when they were made clerks in this office in January and Feb-

ruary, they became demoralized very soon after they were under the instructions of the Commissioner, because they had their drunk down at the Chapman House on the 24th day of April. If they were temperance men; if they were men of good standing; if they were men of sobriety; if they were all the counsel claims for them, they became demoralized very soon after they came under the tuition of the Commissioner of the State Land Office of the State of Michigan.

In regard to Article VII., I say simply this, that under the statute, if you find, from the evidence, that the Commissioner dealt in scrip, or, in other words, has purchased land with scrip, when money has been sent, he is liable under the statute, under the Seventh Article, for receiving money, and changing it into scrip.

The Presiding Officer—The Senate, sitting as a Court of Impeachment, will take a recess until two o'clock this afternoon.

Wednesday, P. M., May 22, 1872.

The Senate met and was called to order by the President *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

The Presiding Officer—The Honorable Manager will proceed with the argument.

Mr. Manager Huston—Mr. President and Senators: I desire at this time to thank the members of this Court for the undivided attention they seemed to give to the remarks I made this forenoon; and if I can only crave your indulgence for a little while longer, I will endeavor to be as brief as I possibly can and do justice to the case.

I said at the time the Court adjourned that I had closed what I desired to say in regard to dealing in lands, and to

matters pertaining to the Land Office. There is one thing I omitted, to which I desire to call your attention at this time; it is in regard to the reservation of certain lands that had been previously reserved by Obed Smith of Alpena. These lands, as you will remember, according to the testimony, had been reserved upon several contracts; in other words, Mr. Smith had five different contracts, and they had been reserved generally, as was the custom of the office, upon these contracts,—upon this unmatured scrip that he was entitled to by virtue of these contracts, which scrip, of course, when matured would entitle him to a patent for these lands. If the contracts were not completed, as a matter of course, the land reverted back to the State. You will remember that Mr. Smith testified that he came here, on the 29th day of November, to procure some patents of a portion of these lands that he had reserved, to which he was entitled to have patents upon scrip that had matured; that when he got here he found that a portion of his land—sixteen hundred acres—had been reserved, as it was claimed, by Mr. Ripley. Now, we claim—and claim that the evidence in this matter shows this to be the fact—that these reservations were made with a view of defrauding Mr. Smith out of these lands, when he had sufficient unmatured scrip to warrant him in holding the lands. It is one of the evils which arise from the practice of allowing the Deputy Commissioner to be the agent of Ripley, to be the agent of Hall, or to be the agent of anybody. It seems from the testimony, that it turned out that when the true statement of his account was procured by Smith, that he had several thousand dollars more of unmatured scrip than he had selected lands for. The application of Mr. Ripley I have here, and it reads as follows:

"*W. A. Barnard, Esq.:*

"DEAR SIR—Will you please reserve for me on my contract the above list of lands for a few days, until my man returns from the woods? I am not entirely satisfied about them until

I get another report. If you will do this, I will make it all right for your trouble. If they are vacant, and you will do as above requested, *telegraph me without fail to-morrow morning.*

"Yours,

"H. C. RIPLEY."

Now, there is the application for this list of lands. To reward Mr. Barnard, he proposes to pay him for his trouble. Mr. Smith swears that this tract of land of sixteen hundred acres, was worth five dollars an acre, and that would be some eight thousand dollars. He testifies, also, that when he got here, he found this land marked to Ripley on the plat-books, but not carried on to the reservation-book. Mr. Gillam has been introduced, who has the immediate charge of the reservation-book, and they claim that these reservations are not placed in the reservation books when they are made; but it turns out, according to his testimony, that this reservation was not placed on the reservation-book, and the reason was because it was not clear whether Ripley could hold the land or not. Why not clear? My theory is just this: They did not know whether they could frighten or drive the old gentleman, Smith, away from this reservation, or not, so that Ripley could hold it; for it seems Smith had the scrip. And there is another significant point, to which I desire to call your attention right here,—that Smith sold, only a few days before this, some two thousand dollars' worth of his scrip. They have introduced Mr. Robinson and Mr. Gillam on the stand, who swore that the Commissioner does not at the present, and for some time past has not allowed a party who has reserved land, to sell his scrip. They say that was the practice,—it has been the practice under Mr. Edmonds' administration,—but it is not now the practice; that the orders are drawn in such a way. And, you will remember, this forenoon I asked the question, why they had not introduced some of those orders. But we take them at their word. We say the office will not allow a party, after he has reserved the land on unmatured scrip,—when his contract has been approved,—they will not allow him to sell

his scrip so as to uncover his land. Then, I say, why do they permit him to do it? They had knowledge of the fact. That will not do. He was allowed to sell this scrip, and then Ripley makes this application. He was there in the office, and Gillam tells him that he did not think Smith had sufficient scrip to cover this land. He sends in this application afterwards, asking Barnard to reserve this land, for a few days. For what purpose? That he might have them looked. This was on the 23d of November. Smith comes five or six days afterwards and wanted the patents to his land. He wanted his account, and they told him this sixteen hundred acres was reserved for Ripley. Some of this has since sold for six or seven dollars an acre. They told him he could not have them; they were reserved for Ripley; but they were not carried on the reserve-books at all. They were not entered up there at all. The Commissioner tells him he had better go and see Ripley. He went to see Ripley, and Ripley told him if he wanted some of these descriptions, it would be as the Deputy said. Why as the Deputy said? So it seems that the Deputy must have been in some way connected with these transactions. Now there is another thing very significant in this matter. It seems it was ascertained, on the investigation, that Smith had scrip enough to hold his land, and that Ripley finally abandoned the whole thing,—gave up his sixteen hundred acres of land, because he was not entitled to them; and then he told him that Hall made reserve of the same land on the 24th. Hall's reserve was not carried out on the reserve-book at all; and if Hall reserved it on the 24th, why did they not tell Smith, when he was here on the 29th, that this was the case? Smith says, that on an examination of the books, Ripley's initials were in the books, but Hall's were not. Afterward, when he came back in December, Hall's name appeared on the plat-books, but not on the reserve-book. Hall tells you he knew nothing of this reservation, until along in January,—he had no knowledge of it. He had no information at all on this question, until he came here in January. Now,

all there is about it is, Mr. Hall swears that Mr. Barnard furnished these lists of lands to Potter, and Potter had them reserved to Hall; that Potter, acting there in the office, had these reserves made. There can be no doubt of the fact; and taking this into consideration,—the fact that they allowed the reserves to be made when it was not all uncovered,—it seems to me you can come to no other conclusion than that Barnard was interested in this transaction. They were to be reserved by Ripley, and if Ripley could not hold them they were to be reserved by Hall. It seems that Ripley had not scrip enough to hold the lands. Then he telegraphed Barnard to sell him scrip, and Barnard and Edmonds could make ten per cent on the scrip. They could sell the scrip so he could get lands. But Ripley did not want the lands until he could look them. What right had they to allow Ripley to hold the lands in that way? When Smith was there, did not Commissioner Edmonds place himself squarely upon this reservation? I challenge the attention of the counsel that is to reply to me, to this matter, and he will not find in "Venus and Adonis" any answer to this question,—how it is that Mr. Edmonds should tell Mr. Smith that he must go to Ripley when they dare not carry the reservation upon the reservation books. He tells them they are reserved for Ripley; he had knowledge of this transaction, and Ripley says he does not know whether he wants to reserve them or not; but if they reserve them he will reward them for it. He wants them to hold them until he can send a man up there, which would take him a month or six weeks, to look this land over. It was in November. It was the 29th of November that Mr. Smith was there. It was the 23d of November that this paper came into the office. These lands were in Cheboygan county,—the extreme northern county in the Lower Peninsula. It was when there was no steamboat running, and there were no cars there. A man had to go on foot. It would take him a month or six weeks, at the shortest calculation, to inspect those lands, and they knew it. He had to send a man there to inspect them. I

submit, if here is not conclusive evidence that the Commissioner proposed to hold lands against the law. He proposed to hold them until Ripley could send some one up there and inspect them and determine whether he wanted them or not. For some reason or other, Ripley concluded that he did not want to hold them or could not hold them. Then Hall came in with an application that was made before the 29th. They say nothing to Smith about it. Whether this was dated back or not, I do not know; it was not carried upon the reservation-book. It would be a very easy matter for Barnard and Potter to make the date of this application the 27th; of course they wanted to make it after Ripley's. But it is a little strange that Mr. Hall should have an application in there for the same land, dated the 24th, and on the 29th they should be insisting that they belonged to Ripley, and they should send Smith down there to settle with Ripley,—to get the land from him if he could. Then, when Smith comes back, they refer him to Hall. They told him to go and see Hall; but it seems that he did not propose to do that. He took steps to put the matter into court, hired his attorneys at a large expense, and he finally, as he testifies, got the pay for all his lands.

It seems to me that there can be no doubt but that the Commissioner had knowledge of this transaction, and the fact that the lands were wrongfully held for the purpose of allowing Ripley time to have them looked. There can be no doubt about it, as that is the written evidence in the case.

I wish to call your attention to just one other thing and only one, in regard to these matters. That is, Mr. Bush's testimony with regard to the Dimon land. The counsel, you will remember, spoke about Bush having procured for Ripley the Ripley lands, and he says Bush is wholly unworthy of credit, on account of an affidavit that he made at that time. The affidavit that he made, was made sometime prior to the time the affidavits were brought in here, and of course his affidavit could be and no doubt was literally true,—still these other affi

davits may be true, or may be false. They are *ex part* affidavits, brought in here, without any benefit of a cross-examination; and as to what this log house referred to is, I do not know; but it does occur sometimes that these log houses are very slim affairs. Many of us, who have been in the northern part of the State, know how that is. There is nothing here to show that he did anything to get this land away from Ripley. He says Dimon was not on the land, and that he went back afterwards and inspected this land and ascertained,—and he tells you what improvements there were at that time. This old burning, from which timber had been got, had a few potatoes planted upon it; that was all there was after these affidavits had been filed, when he went and inspected this matter.

The counsel has also made some remarks about Bush going to the office; and you remember he did testify that he came here with all three cases of classes, and they were submitted to Edmonds,—where proofs were not filed, on licensed land; where proofs had been filed; and where land was abandoned. They wanted to get the land without filing proofs in certain cases, and it was decided that they could not get them; and they raised this question because Mr. Bush desired to get these lands without filing proofs. Mr. Bush tells you it was almost impossible to get the proofs. He proposed to file his own affidavit, but it was almost impossible to get the affidavit of a supervisor, or of two citizens residing in the township.

Now, anybody living in the northern part of the State knows that that may be true in many cases. There is no doubt that in many sections of licensed lands there is no supervisor in the township, nor any supervisor within twenty-five or thirty miles of where the land is; and it was that kind of cases in which he proposed to file his own affidavit. It had been done in the office, simply because that was the reason; simply because there were many cases in which the affidavit of a supervisor could not be got, because the law provided it should be a supervisor of the township. If it was an unorganized county, if there was no supervisor of the township, of course the affi-

davit of the supervisor could not be got. If there was nobody residing in the township, no responsible citizens of the township could be procured, to make the affidavit. Now, that is all there is of that matter.

I desire to call your attention now to Article Eight, in reference to this paper. We claim that this paper is scandalous, obscene, immoral, and libelous; and that independent of the fact of its being obscene, the publication of it is a libel and indictable; that it was a misdemeanor. May it please the Court, I do not look upon this paper as a small matter. I do not look upon it as the counsel for the defense look upon it; I look upon it as a serious matter. I say that it is libelous, and no one can doubt that proposition who has read it; and that a libel is indictable no lawyer will deny; and that it is a libel, that it was intended by Mr. Edmonds when he put it in circulation to ruin the character of Mr. Porter, the facts in evidence all tend to show; while the direct tendency of this paper is to injure the morals of those who may read it. to a certain extent. While it is obscene, there can be no doubt about the other proposition, that it was libelous. It is no trifling matter when a State officer,—one, as I have said, of the trusted officers of the State of Michigan—takes it upon himself to blacken the character of one of the citizens of this State, that he should enter into an arrangement to publish and circulate a paper of this character, and send it to the principal officials of the State. The idea that it can be called but a trifling matter for the Commissioner of the State Land Office to take it upon himself, knowing and feeling, as he must have known and felt, that he was doing what he had no right to do, traveling outside of the State for fear that he would be detected here, and going to Laporte to mail these papers, is simply absurd. It is no trifling matter, that the Commissioner of the State Land Office of the State of Michigan should go down there, as I have remarked in the opening of this case, like a criminal, in the night-time, ariving at the hotel at four o'clock in the morn-

ing, registering his name there as "Alexander Haynes" of "Menominee;" not daring to register himself as the Commissioner of the State Land Office; and then depositing these papers in the postoffice, that this vile slander might be spread all over the State of Michigan. I am not one of the number who believe that if a party attacks my character, if he studiously attempts to place upon me a blot or a stain that cannot be wiped out, that he does not do me a greater injury than he does when he robs me of my property. There is no evidence here, there has been no evidence sought to be introduced here, to show this Court that Mr. Porter was guilty of any of these things charged against him here. Mr. Porter is presumed to be innocent of these charges; every man is presumed to be innocent until he is shown to be guilty. Mr. Porter is not presumed to be guilty of any of the charges brought against him here. Now, what are the facts in regard to this paper? How would any member of this Court feel, had a paper of this kind been circulated in regard to him?—your picture and that of a notorious prostitute put together and circulated all over the State of Michigan, as has been done in this case, for the purpose of blackening your character,—for the purpose of ruining your standing in society? It cannot be said that it is a small matter,—that it is a light matter. I apprehend that if any member of this Court was placed in the position that Mr. Porter is placed in here, that he would feel that he had been outraged more than he would had he been robbed of property by the stealthy midnight marauder. The crime is greater, because the injury is greater. And the injury inflicted on Mr. Porter, in this case, cannot wash out, live as long as he may. Innocent or guilty, this paper has laid a stain upon his character that he cannot wash out. A man's character is like a snow-bank, that one day is white and pure; the next day, perchance, the winds have swept over the fields and have deposited some dust upon what had else been its unsullied whiteness. That snow-bank may melt and vanish away beneath the sun's bright rays, but as long as it remains, the marks of that pollu-

tion are in full view. So the dirt flung upon Mr. Porter, by the Commissioner of the Land Office of the noble State of Michigan, will still remain a stain upon his character. The act was done for that purpose. Alexander Haynes of Menominee, *alias* Charles A. Edmonds of Coldwater, the Commissioner of the State Land Office of the State of Michigan, put this stain upon him; and he did it knowingly, wickedly, intentionally, and from a sinister motive;—studying, for days and nights, how he might accomplish his purpose and blacken an otherwise fair reputation. How would you like such a charge—any of you—upon your characters? How would you like to have such a paper circulated in the community by a trusted officer of the State of Michigan? Would you say it was a light matter,—a trivial matter? I apprehend not.

In addition to the fact that this paper is libelous, we claim that it is obscene. I desire to read the definition of the word, "Offensive to chastity and delicacy; expressing to the mind the view of something which delicacy, purity, and decency forbid to be exposed. Impure, immodest, indecent, unchaste." Now I will call the attention of the Court—

Mr. Shipman—What book is that you are reading that definition from?

Mr. Huston—That is the definition of Webster's Dictionary.

I understand the counsel proposes to read something from Shakespeare that he says is just as bad as this is. Perhaps he will read the "Venus and Adonis," but I desire to say that it makes no difference how many bad things or good things he may read, it cannot change this matter. You are trying the question, gentlemen, now upon this Article: whether this paper is libelious, whether it is obscene, whether the character of the paper is such that that he had no right to deposit it in the mails, and whether even if he had a right to deposit it in the mails, he had a right to circulate it, it being a libel and injurious to the character of a citizen of this State.

I will read the following extract from this paper:

"COMMUNICANT.—In answer to your inquiry as to the pro-

priety of an expulsion from the church, on account of fornication and adultery, we would say: We think it would be highly proper further east, and nearer the vicinity of the landing of the Pilgrims 'Who came to worship God,' but candor compels us to admit that at present we have no precedent in Michigan that would seem to warrant such extreme measures."

Now, here, you see, the Commissioner of the State Land Office makes a direct thrust against the whole Christian community, who placed him in his present position by their votes. He makes a direct thrust at them upon the matters of church discipline, as much as to say, the churches of Michigan would not expel a licentious man, and would not turn from the communion-table a man who was guilty of adultery,—a man who was a frequenter of houses of ill fame.

Mr. Manager Huston here read the following extracts from "Every Wednesday Night:"

"SUFFERER.—Immediately upon discovering of the fact that the cheese was poisoned, you should prepare and take the following, internally: 1 oz. copavia (balsam), 1 oz. sweet spirits nitre, 1 oz. distilled water. A good article of Holland gin would be advisable for daily consumption."

"PEW-HOLDER.—You should at first ascertain if your pastor meant to thrust at you in his sermon upon harlots. Yet, in your present standing, perhaps it would be advisable for you to keep shady for fear of another investigation."

Evidently referring to Porter.

"RUSTICUS.—We are happy to know that your domestic relations are pleasenter than with your first wife; but regret that you are, as you state, given to plowing with other heifers. Discovery by your wife would dash the fabric of happiness to earth."

Now, are not those obscene? Are they not unchaste? Can there be any doubt about what is meant by the Commissioner in these statements. How would you like to have such a paper circulated with evident reference to you, either of you, mem-

bers of this court? "Discovery by your wife would dash the fabric of happiness to earth."

I will read another extract:

"H. E. PETER.—Your case is sad, but not an isolated one. 'And behold there met him a woman, with the attire of a harlot, and subtle of heart. With much fair speech she caused him to yield. With the flattering of her lips, she forced him.' Persevere in the use of the lotion for which we sent you the receipt, and tell your folks that you have eaten poisoned cheese, if they notice your failing health."

Clearly charging that this party had not only been guilty of adultery with the woman whose picture is placed in the paper, but that he was suffering from a loathsome disease. This bold charge is made in this paper, and the paper is freely circulated in the very city where this man resides. Now, will gentlemen say that this is a matter of no consequence?

I also find the following in this paper:

"P. H. ETER.—Stolen waters are sweet, and bread eaten in secret is pleasant. However, the state of the thermometer affects this rule very much."

Now, you remember that there is a letter here that they claim is written by Porter—it is signed John Gray—in which they say Porter invited this Alice McCabe to go with him to Detroit, and stop at the Biddle House, going by the way of Jackson, if they did not make arrangements to go the other way. They could go by the way of Jackson and stay over night, as referred to in the letter. But there is no evidence that Porter ever wrote this letter. You have no right to presume that he has ever been guilty of anything of this kind, without any proof on the question. I will only encroach on your patience by reading a couple of extracts more:

"PROFESSIONAL HYPOCRITE.—The advice of your brother to leave town was good, and the forbearance of your father-in-law in not publishing your iniquity to your family was certainly an act you should long remember with gratitude.

Remember hereafter in your intercourse with harlots that letters are dangerous."

Referring evidently to these letters. And again:

"ENQUIRER.—We hardly think you should find any fault, for even if the party you suspect did take the money, it was not perverted from its destination; and inasmuch as Alice got it, you will perceive it is no fraud upon her. You might, perhaps, maintain an action for the value of what was received from her, if of any value."

Any one can see the allusion that is made in this letter. I trust that no member of this Court would desire to have his name connected with that of a harlot in the way that Porter's has been. We say that these articles that we have read here are immoral and obscene, and we claim that of every original article in the paper. There are some extracts from other papers. But every letter and every original article in that paper, as published by the Commissioner, is not only libeous, but it is obscene. And that is the very question that this Court is to pass upon. That is the very question submitted to this Court, that you are to decide upon; and it seems to me you cannot come to any other conclusion, excepting that he is guilty of the charge that is made against him. The counsel asks us to designate what we claim is obscene. We claim the whole of it is.

Under Article IX., we simply say, that the argument we have made in support of Article VIII. would apply to that. If the paper was obscene it was a violation of the laws of the United States, and I do not propose to take up any time on that question. The counsel calls my attention to the wording of the laws of the United States, which provides that it must be not only obscene, but that it must be vulgar and of an indecent character. Now, I submit to the Court that, unless you decide that you have no right to try matters outside of official misconduct, I submit to this Court whether you can say under your oaths of office when you come to pass upon this question, that this paper is not obscene, that it is not indecent, that it is

not vulgar, that it is not of an indecent character? And I ask the members of this Court, are you willing to say upon your oaths and record your votes upon that question, that this paper was a proper paper to be issued and put into circulation; and that Mr. Edmonds was justified in doing what he has in connection with it? I have too much confidence in the members of this Court to believe that you will do anything of the kind.

I desire now to call your attention to the testimony under Article X., which charges the Commissioner with being drunk; and I desire to say right here, may it please the Court, that counsel for the defense seem to stand upon this position, that it is no matter how often the Commissioner was drunk, provided it was before July, before the law of 1871 took effect. I am inclined to think that that law does not apply to cases of this kind at all,—that the law of 1871 was intended to apply to cases where the Governor could remove them; for instance in the case of county officers, where he could provide for the investigation, and have the testimony taken, as the law provides he may have it done, and remove the party for drunkenness. I don't think that statute goes any further than this; but I say this, that under the power this Court has to remove an officer, I don't think that is the law. When it is for the interest of the State that a Constitutional officer, or State officer, should be removed, this Court has the power to remove that officer for drunkenness. It is not necessary that you should have the statute at all. Some of the authorities go so far as to say that an insane man may be impeached. It was claimed, in the case of Pickering, that that was the mode by which an insane man might be removed from office. That is all this Court has to do. That is all the power this Court has. If they convict Mr. Edmonds, and remove him, it is to say that they will not trust him any longer.

Now, I submit, if a man becomes an habitual drunkard, and disgraces his office by strong drink or by visiting places of ill-

repute, it places a stigma upon the State of Michigan. Who can question your jurisdiction, or whether or not it be your duty to remove such an officer? So now, if Mr. Edmonds did, at these times, what he ought not to have done, we say, independent of the law of 1871, this Court can convict him. It is stated, in reply to the testimony of Mr. Baker, and for the purpose of having its effect on some other parts of the testimony, that he is not entitled to credit; they say they called in the honest Dutchman, and call your attention and say "Who doubts his statement?" I will tell him that I believe there is not a member of this Court believes a word he said. You will remember he swore positively and distinctly that he had not talked with anybody. They brought him into impeach Baker, and he swore that he saw Baker in the billiard-room playing billiards with some one. He swore at the same time that he had not spoken to anybody about this matter,—that he has not spoken to anybody since the 24th of April, 1871; that he had not spoken to Edmonds or his clerks, and had not talked with the counsel. Do you believe anything of that kind? Do you believe that my friends here are so injudicious as to put a man on the stand without knowing what he was going to swear to? If he was false then, is it not fair to suppose he was false in other respects? You remember how squarely he denied that he had said anything to anybody,—that the first time he opened his mouth about Mr. Baker's being there was here upon this witness stand. You do not believe anything of the kind. This is the testimony that is introduced to impeach Baker.

Another witness is this Griswold. He fixes the time at between twelve and one o'clock, and the other says eleven. Straub says that he could not make a shot. I do not know what that means; I never played a game of billiards in my life. I suppose it means that he could not count, and that they abandoned the game of billiards that they were playing.

Now, is it reasonable to suppose that he remembered much at that time? I apprehend not. Then, when you take into consideration the fact that Baker's testimony has been cor-

roborated by four of the best citizens of this town, it seems to me you will believe what has been said.

Now, I submit whether it is not sufficient for you to say that the Commissioner ought not to be intrusted in this office longer, if he will enter into such carousals as that at the Chapman House, and the one at the Lansing House, with his clerks?

Now, I call your attention to the Eleventh Article. I have no doubt you are glad that I have got so near through. This Article is the one that charges the Commissioner of the State Land Office of Michigan with having committed adultery at the Lansing House and at other places. It seems to me that the testimony upon this question is conclusive, so far as visiting the house of Alice McCabe. You will remember that the counsel stated, in his opening, that they would show that Edmonds went down toward the river for the purpose of getting some water at the mineral spring, and when he returned, not having gone over the river, he was called in by some one who rapped on the window. He went in and was there a few minutes, and they were going to bring the person here who called him in? They have not done it,—I do not know why they have not done it, but the person is not here and has not been produced, and I presume cannot be produced. This is but a mere pretext. The testimony upon this question, so far as they have any testimony, is that Mr. Clarke swore that he went down with Edmonds that morning, and that he was in the habit of going down there three or four or five times a week. He went down there with Edmonds, and he was going to stay till office hours but what he would get some of this water, and Edmonds returned. Now, I submit to your candid consideration whether Clarke would be likely to remember, if he was going up there three or four times a week, whether he would be likely to remember the particular morning that Edmonds went down there. You have a right to take into consideration the interest that Clarke has in this matter,—that he is a clerk in this office,—that he is interested in having Edmonds acquitted; and I do not believe one

word of his testimony. I believe this is merely a put-up matter, without any good foundation, and I come to the conclusion that if Edmonds was down there, and came out of that house when the sun was half an hour high, the fair presumption is that he had been there all night.

It has been claimed here by the counsel, that Edmonds wanted to clear this matter up; that he sent a letter to the Investigating Committee, saying that he was anxious to do it, and when they opened the case they promised to explain all these matters; that they would show to the people of this State that the charges brought against Edmonds were not true. Do you suppose anybody will be satisfied with this explanation? On the contrary, their truth is more conclusive Why was not the party that called him in produced? There is not a man in this Court, in my opinion, that believes one word that Clarke says. It is the merest pretext. If Edmonds was there, and came away from that house with the sun half an hour high, the reasonable and fair presumption is that he had been there all night. It is not at all likely that he would go down there in the morning; but he went there in the night, and came out of the house in the morning. There is no doubt about it. And I say, the weakness of the defense shows the more conclusively that it is true. He wishes to convince the people of this State that it is a false accusation. The people of this State would be glad to know who the man was that called him in. The people of this State would be glad to know why the Commissioner did not come upon the stand and swear that it was false. I suppose the reason he did not do it, was because he could not do it. And I say this, that if a man goes into a house of ill-fame—and the Commissioner must have known this was a house of ill-fame—leaves his boarding place and stays all night, the presumption is that it is sufficient ground under the law to procure divorce; that it is sufficient to convict the party of the charge of adultery; and if you come to the conclusion that this was the fact, you must find that he

was guilty of the charges that were brought against him in reference to this matter.

The counsel has read the statute here, as much as to say that the prosecution should be commenced by the wife. That is true so far as the crime is concerned, and it should be commenced within one year. But that has nothing to do with this investigation at all. Adultery, as a crime, exists just as much after the year has elapsed, as it did before. The statute has provided what adultery is. It provides that prosecution for adultery should be commenced in one year. But after the year has elapsed, the crime is not washed out; the man is not pure; the skirts are not pure; the fact that he committed adultery is there just the same. He has not cleared this up. The Commissioner of the State Land Office of the State of Michigan, in the month of September last, was seen coming out of a house of ill-fame in the morning. It is an undisputed fact, and we submit to this honorable Court, whether it is not a disgrace to this State; whether it does not dishonor the men that placed him in the office that he occupies?

Can it be said that the Senate of the State of Michigan will disregard all these men? Can it be said that the Senate of the State of Michigan will wink at transactions of this kind. You are assumed to act upon this Article. This is not all the testimony there, is in regard to it. We have the testimony of Mr. Anderson, this colored man, which shows that Edmonds occupied room number 75 at the Lansing House; that there was a lady occupying room number 97,—not upon the same hall, but in a different part of the house; that Edmonds, the Commissioner of the State Land Office of the State of Michigan, was seen closing her door, or just about to open it,—he had his hand upon the knob of the door. Now, I do not claim that this proves adultery, but I claim, that it goes to corroborate the other testimony; it goes to show the manner of the man; it goes to show what kind of a man the Commissioner of the Land Office is. What was he hanging around the door of this

woman for? What was he at number 97 for? The answer is in the mind of every one of you. What business had he there? Why has he not explained this? Why has he not washed it out? Why has he not made it white as snow? We have the testimony of Mrs. Hudson, with regard to this menstrual flow. They say that does not amount to anything, because they show upon certain occasions, that this party had bled from the urethra. How many occasions of that kind have they shown? How often has he bled? Twice according to the testimony, once when Dr. Cutler and Bennett were called, and once over here at the Lansing House. That is all the evidence they have introduced. If he had been troubled in this way, as claimed, why did they not prove it by his family physician? why did they not prove it by neighbors? why did not Charles A. Edmonds, the Commissioner of the State Land Office, swear to it himself? why did he not explain this matter. It was because he dare not do it. They could have put him upon the stand, and he could have washed himself of these matters. If they were not true, why was he not sworn? Because they dare not swear him; they dare not trust him to speak in reference to this subject.

The evidence shows that upon another occasion, that two women were turned away from that house, and Clarke was seen to come down stairs with one of them. We submit, when you take all of these things into consideration, that it shows the character of the man in this respect. And I claim that it is a disgrace to the State of Michigan, it is a dishonor to the people, to say that a man of this character, a man branded with these marks, should be still retained in this office. You have the power to remove him, and I believe that you will exercise that power. The people of the State of Michigan are waiting with confidence for the verdict of this Court.

We further say that when you take the whole volume of this testimony into consideration; when you take into consideration the land contracts; when you take into consideration the reservation of land; when you take into consideration the

drinking and the frequenting of this house of ill-fame, which we claim is a dishonor and a crime against this State; when you take all these things into consideration,—the fact that the office of the Commissioner of the State Land Office is one of the most important in the State; one where there are large interests involved; one where there are over three million acres of land to be superintended; where moneys are paid in daily,—I say, when you take all these things into consideration, it seems to me that the Court can come to no other conclusion, except that the Commissioner of the State Land Office is not a proper person to be intrusted with the care of that office; and that, if you believe with us, that you have the power to remove an officer when it is for the public interest that he should no longer be retained, we believe you will remove him.

He has no right to claim that because he has been connected with this office he can hold it during his entire term. He has no right to claim anything of that kind, unless he conducts himself as a citizen ought; and we submit whether the testimony does not show that he has not done so?

Thanking you for the kind attention you have given me, I will no longer infringe on your patience.

The Presiding Officer—The Court will take an informal recess of five minutes.

AFTER RECESS.

The Presiding Officer—The counsel for the respondent will proceed with the argument.

Mr. Shipman, counsel on behalf of the respondent, addressed the Senate as follows:

MR. PRESIDENT AND SENATORS: I congratulate you upon nearing the close of this long and weary trial, and the prospect of a speedy return to your homes, which you have left to attend it. You will remember that when you assumed the duties of Senators, you took upon yourselves an oath to perform those duties to the best of your ability. That is the only test that is required of an officer of this State; not that you

should not make mistakes,—all men will do that,—but simply that you should perform your duties to the best of your ability. You may decide the case right or wrong, for or against the respondent, but there is no law upon earth, or above the earth, that can hold you responsible for your decision. The measure of your responsibility is that you shall do your duties to the best of your ability. You are here in the performance of one of those duties. When you were formed into a Court for the trial of this impeachment, you took upon yourselves another oath, and that was, to decide this case according to the law and the evidence. You may not do that; you may make a mistake, for "to err is human." These oaths together mean simply this: That you will, to the best of your ability, decide the case according to the law and the evidence. That is your duty, and all your duty. I shall assume, in the outset, that no Senator will be influenced by any outside pressure or clamor in this matter; such things are very easily gotten up. There is much less danger of them in this case than is usual in impeachment cases; still, of course, there will be more or less here.

I come before you, Senators, with perfect confidence that every gentleman in front of me intends to do just exactly his duty in this matter,—no more and no less; and I shall present the case upon that basis. In the brief time that I have left me this evening, I shall call your attention to Articles numbered VIII and IX. So far as Article VII is concerned, I shall have nothing to do with it. There is nothing in it. There is nothing in Article X, and I do not propose to take up the time of the Senate with it. There is no offense shown under it, and I do not suppose that any one entertains a serious question about it. I shall first call your attention to Article IX., as you will remember that that Article is for a violation of a law of the United States. It is not alleged or charged to be a violation of the laws of this State. It is not alleged or charged to be a violation of the Constitution of this State, or a matter coming within the Constitutional provision

relating to the impeachment of officers. There is no such claim; but simply this: that he committed a crime against the laws of the United States. It is a strange proposition, and a novel one, for there is no tribunal in this State that can hear and determine a question under the United States laws. The rule is settled, so far as impeachments in Congress are concerned, that Congress can only impeach for offenses against the United States. How these offenses arise,—whether there is a common law in regard to offenses against the United States, the authorities do not agree upon; but all agree that it must be an offense against the United States, in order to impeach an officer in Congress. And I will refer you, upon this question, to the opinion of Senator Sherman, found in the 3d Vol., Andrew Johnson Trial, at page 159, which the Manager referred to yesterday, reading but two or three lines:

"Treason, bribery, and other offenses of the nature of high crimes and misdemeanors, to be impeachable, must be crimes against the general laws of the United States, and punishable in their courts, in the localities where committed."

Again he says:

" Nor would any crime, or offense whatever, against a State, or against religion, or morality, be a cause for impeachment, unless such an act had been previously declared by a law of Congress to be a *high crime* or a *high misdemeanor*, and was in its character of deep turpitude."

This is the language of Senator Sherman. I will now call your attention, upon the same point, to 6 American Law Register, new series, pages 268 and 269:

"A basis for a very important conclusion has now been laid. It is this: As there are, under the laws of the United States, no common-law crimes, but only those which are contrary to some positive statutory rule, there can be no impeachment except for a violation of a law of Congress, or for the commission of a crime named in the Constitution. English precedents,

concerning impeachable crimes, are consequently not applicable."

Again he says:

"The result is, that unless the crime is specifically named in the Constitution, impeachments, like indictments, can only be instituted for crimes committed against the statutory law of the United States."

The rule, as I have stated, is not well settled, whether or not there may be or there are common-law crimes against the government of the United States. We will not stop to discuss that question now; but all agree that it must be an offense against the United States government to authorize an impeachment in Congress. Now, the rule is just as clear in regard to State governments; that when you would impeach an officer in a State Legislature, it must be for an offense against the laws of the State,—either against the common law of the State, or the statute law of the State; it is quite immaterial which, so far as this question is concerned.

I, therefore, think that we need spend little time upon that Article. It clearly has no business here.

In regard to Article VIII. It is charged here that he committed a crime against the statute laws of this State. The language is this, that he "was guilty of a misdemeanor, contrary to the form of the statute, against the peace and dignity of the people of the State of Michigan." It is not claimed that that offense is within the meaning of the Constitutional provision relating to impeachments. It is not alleged that he violated that Constitutional provision in regard to impeachment of officers. You are aware that provision is, that "officers may be impeached for corrupt conduct in office, or for crimes or misdemeanors."

It is not claimed that this is an offense within that provision. It ought to have been charged, at all events, to have made it a good Article, as an offense within that provision of the Constitution. However, gentlemen, that question is, I admit,

rather technical, and it is one that I care very little about; because the main point that I shall take up under that is, whether or not this paper, called "Every Wednesday Night," is an obscene paper. The question of whether it is libelous or scandalous, or anything of that kind, should have nothing at all to do with the case.

In the first place, if you charge a libel, you must show who the person libeled is. You must name him, and you must state what that libel consisted of. In cases of recordal (which is a civil proceeding) you must charge the same matters, and aver that they were false, and then upon the proof of the publication of the libel or scandal, we would have a right to come in and defend. We would have a right to show that the matter which is alleged to be libelous is true. I do not know why the Honorable Managers did not charge the publication to be a libel. I do not know that it was, because, if it was so averred, we might prove it to be true. I know nothing of that. I know nothing of the reason why they have not so charged it, but they have not seen fit to do so; and they cannot, by a hurrah and a violent speech, make even a thing which is libelous and scandalous obscene. All you have to do with the paper, is to inquire whether it be obscene. If it is not an obscene paper, then the respondent is not guilty of the offense there charged, because you are to find that he is guilty of that thing,—not something existing outside of the Article.

You cannot go roaming around for offenses. Why are these Articles brought here? Why do you have any Articles at all, but to furnish the defendant with notice of the matter charged against him, and something for you to find upon? Besides, the Honorable Manager tells us these Articles are found by the House of Representatives. That is the only offense, therefore, that the House charge against the respondent. They do not ask you to convict him for anything else, and you cannot do so. The only proposition and the only question is, whether it is obscene. I am aware that they have sought to excite your

prejudices, by asking, "How would you like to have your name connected with a harlot in that way?" and various other methods have been resorted to to get up a kind of prejudice in the matter. I do not propose to pay any attention to those efforts, because I do not suppose you will be influenced by them in your judgment upon this case. Is that an obscene document?—and what is an obscene paper? We have had no definition of it at all. None of the Managers have given us one, except that one of them has quoted part of a definition from Webster. Farther than that he has not gone. Webster gives the definition thus:

"Obscene: Offensive to chastity and delicacy; expressing, or presenting to the mind or view something which delicacy, purity, and decency forbid to be exposed; impure, as obscene language, obscene pictures." The charge itself is made under section 5868 of the second volume Compiled Laws of 1857. That is the place they have put it, and, mark the language. To come under that section, it must contain obscene language, or obscene prints, pictures, figures, or descriptions, manifestly tending, etc.

There are two statutes upon this subject;—they are upon the same subject, rather. They are what the lawyers would term *in pari materia*, and are, therefore, to be read together. The first one is section 5861, 2d Vol. C. L. of 1857, in regard to an "open and indecent, or obscene exposure of the person." That is the first one. The second is in regard to prints, papers, and publications. I will show you, in a moment, what an obscene exposure of the person is. Those statutes, read together, mean simply this: Section 5861 means the actual physical exposure of parts of the person. No lawyer will deny that. Section 5868 means an exposure of the person by prints, pictures, or descriptions, and the other provision means an exposure of it by language or descriptions; but the obscene language must name, in the language of the definition that I have read to you from Webster, or in some way present to the mind or view, those parts of the person, which, if physically exposed,

would constitute an obscene exposure of it, under section 5861. That is the meaning of this statute.

Now I will call your attention to 2 Bishop on Crimminal Law, Sec. 811. Speaking of obscene books he gives the common-law definition, and then says:

"The law seems to stand on the same ground relating to this subject as to the subject of the exposure of the person."

Now I will call your attention to what is an obscene exposeure of the person. 2 Bish. Crim. Law, Sec. 224, says:

"How large a part and what part, other than the privates, of a person must be exposed in order to constitute the offense, the cases do not disclose. Ordinarily the exposure is merely of the private members, and there is no question of this being sufficient. The same follows, as a consequence, where the exposure is of the entire naked body. In an old case, an indictment, says the report, 'for running in the common way, naked down to the waist, the defendant being a woman,' was quashed; and the observation recorded as expressing the reason is, that 'nothing appears immodest or unlawful.' But we should hesitate to say that a common woman could go thus through a principal street in one of our cities, without subjecting herself to this prosecution."

You have as clear a definition in that book as I can give, of what is an obscene exposure of the person, and this printed paper must present to the mind those parts of the person which, if physically exposed, would amount to an obscene exposure under section 5861 of the statute.

I will call your attention to the case of Bell *vs.* The State, in Swan's Tennessee Reports, pps. 46 and 47:

"It would be tedious to enumerate the cases in which offenses have been held indicable as *contra bonos mores*; a few will suffice for the present purpose."

He then cites some cases and proceeds:

"These adjudications, without citing others, we think furnish analogies sufficiently strong to sustain the present prosecution. Are the outrageously vulgar and obscene words found

in this record, if uttered in the ear of the public, less likely to shock any one's sense of decency and to corrupt the morals of society—not to speak of their inevitable tendency to provoke violence and bloodshed—than the offenses charged in the several adjuicated cases above cited? It does not so appear to us."

Thus the courts place the two upon the same ground, although the words that were used are not set out in that case. Hence we say that under no view of the case that possibly can be taken, can you call this an obscene paper. There is not an obscene article in it, within the definition I have given you, and no other has been furnished us, and I can find no other rule than that. The parts of the paper that have been read by the Manager present nothing to my mind at all, that comes within the range of obscene lituature,—that comes within the language of the statute. There was one passage which the Manager read that is a quotation from the Bible, word for word, I am told. That was also pronounced obscene by the Manager. There is nothing in the whole paper, if it were not in the shape it is, if it were not all in one paper, or if it were not local in its character, and in a small place, that any attention would be paid to whatever. If that paper had been published in Chicago, nobody would have thought of calling it an obscene paper. There are poems here that are clipped from other papers. There are various things in it taken from other papers. I will read from an article I find, not a poem and not clipped from any other paper.

"And our *moral* is easily discovered: which is, that it is not safe for business men in good standing and church members, to forsake the embraces of a tender and loving wife,—forgetul of the vows made to her and his God,—and seek the 'bosom of a stranger,' in illicit and clandestine love affairs. That 'All-seeing Eye,' beneath whose watchful care the sun, moon, and stars perform their stupendous evolutions, is ever vigilantly watching transactions of this nature, and by an agency of His own selection, reveals them to the gaze of the world; at the same time, the recording angel is writing in a book that

will be opened in that great day, and spread before the gaze of assembled nations, John Gray's sins."

Now, I am not here to defend this mode of warfare. It is not a question that we can get before you, how this paper happened to be published. It would be very difficult now, looking back, to get all of the circumstances before you, that goaded the respondent on to the publication of this paper. Although he committed an error in doing it, and one which, undoubtedly, he will regret to the last day of his life, (he has not said a word to me as to whether he did or did not publish it), it is not a crime, and that is all you have to deal with here. Mistakes are not crimes.

As a matter of fact, I have no doubt if that paper had never been published this impeachment proceeding had never been begun. As a matter of fact, this suit should be entitled: "The State, for the use of E. H. Porter, *vs.* The Commissioner of the State Land Office." I do not pretend to say here but that Mr. Porter, if he is not guilty of the matters charged in the paper, has not been wronged or injured. I pretend to say nothing of the kind; but there is something strange about this whole thing. Porter has not a word to say about the truth or falsity of the paper. No action for damages is commenced by him. He urged the matter on fiercely for some days, crowding it up with the United States authorities, attempting to have them take hold of and prosecute it, and all at once he stopped; he could not get them to do it. He has made no complaint in the State courts. Dare he commence a private action for damages? I do not know. I only know he has not. It looks to me as if he came in here to inflict a vengeance upon the Commissioner which he dare not attempt personally. I may be all wrong in this. I do not wish to injure Mr. Porter here or elsewhere; but do you remember the testimony of Quigley in reference to obtaining those letters? They look genuine. The respondent paid for them; Mr. Quigley says he bought them of Alice McCabe. I do not know whether they are or are not genuine. I know this, however, that they are matters that

should never have been brought into this tribunal; but they are in here, and you must pass upon them. Whether Porter did right or wrong, be he inocent or guilty in this matter, is a question with which you have nothing to do. The simple and only question is, whether the paper is obscene.

Now, gentlemen, I propose to call your attentiou, very briefly, to some familiar standard works, to show what kind of literature is allowed. You all have undoubtedly, read the works that I am about to read to you, and I beg and hope that the Honorabe Managers will not be shocked at them. This whole matter has been most artistically handled by them. They have taken up this paper with gloves on, and a pair of tongs, and held it out at arms' length, as though it were a terrible, nasty, dirty thing. They have not read it, but have kept it out of sight. Many Senators, I presume, have never seen it at all, and I fear I may produce something from these books that will be very much more shocking to their delicacy, than anything the Managers can find in that paper. I will first call your attention to Byron.

[The counsel here read from Byron, pages 599, 611, 613, 615, 705, and 706.]

Now, I will call your attention to Pope,—pages 252, 260, 261, 269, 270, 273, 274, 278, and 283. I will not read them all to you. I will simply call your attention to them, that you may know where to find them, if you wish to investigate this matter. Not a word can be found in that newspaper that would in any degree compare with the articles I have here cited from the pages of Pope.

I will call your attention to the State Library's Edition of Shakspeare,—pages 765, 884, and 885. I will not read it. Also to Burns, the Scotch poet,—pages 79 and 80,—to be found in the State Library.

I will also read, from Homer's Odyssey, the scene between Mars and Goddess of Love.

[After reading which, Mr. Shipman read from "Knicker-

bocker's History of New York," pages 47, 49, 95, 383, and also from "Woodhull & Claflin's Weekly" of January 6th, 1872.]

There is another article in this paper (Woodhull & Clafflin's), in which the question is asked, "What is seduction," which I will not read. I only read the other as a sample. It is a letter addressed to Tenny C. Claflin, and the answer fills two columns and a half of the paper, and if there is any man in the world who thinks that "Every Wednesday Night," is unchaste in any degree, I would advise him to read that, and get the notion out of his head. This is a paper that circulates every day through the mails; nobody ever thought of calling it an obscene document, within the meaning of these statutes, so far as I know. There is one other thing in this connection that I would call the attention of the Senate to and that is, the large number of newspapers in circulation, and with which "Every Wednesday Night" bears no comparison, like "The Day's Doings," "Police Gazette," and hundreds of that class that you find scattered through the trains on the cars, and in the news rooms.

It is useless for me to say anything about them; you have all seen them and I do not suppose you are any the worse for having seen them; neither do I believe that the people are so easily hurt as the Honorable Managers seem to imagine, by reading such newspapers. I do not believe that at all. And the rule is growing broader, instead of narrower, every day, in regard to what you may, and may not publish. The laws are not being drawn closer, but they are becoming more extended. In view of this, can you call that paper obscene? Is there anything in it that is obscene? I regret, gentlemen, to have to bring this matter to your attention; I regret that it is here. I regret, in the first place, that Mr. Edmonds was guilty of circulating this paper,—and it stands admitted, so far as the evidence is concerned, that he did do so; but we stand here making a straight legal defense to it. Whether or not an officer ought, or ought not to do so, is not a question for you to determine. The Constitution of this State says that you can

only impeach for corrupt conduct in office, or for crimes and misdemeanors. We have the admission of one of the Honorable Managers that the words "crime or misdemeanor," means the same as when used in the statute. The same definition, the same legal notice of crimes obtain, without regard to what the crime is, or the court that it may be tried in. I submit this matter to you, gentlemen, with the confident assurance that there is nothing whatever in the paper that can be called obscene in any degree.

The Presiding Officer—The hour of adjournment has nearly arrived, and as I understand that one of the Senators has a resolution that he desires to offer at this time, counsel will not proceed further.

Mr. Wheeler—Mr. President, I deem this a very fitting occasion to offer the following resolution.

The Secretary read the resolution, as follows;

Resolved, That the proceedings of this Court of Impeachment, with all the preliminary proceedings in the House of Representatives, be corrected from the daily record, under the direction of the Secretary of the Senate, and that an index to the testimony and arguments be added, and that eight hundred copies of the same be printed and bound in book form,—five hundred copies to be disposed of as the official journals of the House and Senate are now disposed of, and three hundred copies to be deposited with the State Librarian for exchange with other States, or for sale at cost.

The resolution was adopted, by yeas and nays, as follows:

YEAS.

Mr. Alexander,	Mr. Moffatt,	Mr. Stoddard,
Begole,	Price,	Storrs,
Briggs,	Prutzman,	Wheeler,
Cawley,	Putnam,	Wood,
Dexter,	Randall,	President
Gay,	Romeyn,	*pro tem.*,
Jenks,	Stockbridge,	19

NAYS.

Mr. Ball,	Mr. Mann,	Mr. Sheley,
Barber,	Neasmith,	Wilcox,
Hannahs,		7

Mr. Sheley—Mr. President, I would move that the rules be suspended, if the attorneys for the defense will consent to it, and proceed with the argument, for an hour,—I would move that the rule be extended for one hour.

Mr. Romeyn—I would like to hear from counsel for the respondent, in regard to it.

Mr. Shipman—Mr. President, it is somewhat a matter of indifference to me, whether I go on or not.

The motion to extend the time for one hour prevailed.

The Presiding Officer—The counsel will proceed with his argument.

Mr. Alexander—Mr. President, I move that the vote by which counsel was permitted to proceed with his argument be reconsidered. I understand from the reporters that it is very laborious for them, and I think it must be.

The Presiding Officer—A motion to adjourn would accomplsih the object that the Senator wishes.

Mr. Ball—I move that we now adjourn.

Mr. Moffatt demanded the yeas and nays.

Mr. Alexander moved that the Senate adjourn.

Mr. Moffatt demanded the yeas and nays.

The roll was called, and the motion prevailed, by yeas and nays, as follows:

YEAS.

Mr. Alexander,	Mr. Mann,	Mr. Wheeler,
Ball,	Putnam,	Wilcox,
Briggs,	Stockbridge,	President
Dexter,	Stoddard,	*pro tem.*
Gay,	Storrs,	13

NAYS.

Mr. Barber,	Mr. Moffatt,	Mr. Randall,
Begole,	Neasmith,	Romeyn,

Mr. Cawley,	Mr. Price,	Mr. Sheley,
Hannahs,	Prutzman,	Wood,
Jenks,		13

Mr. Shipman—Mr. President: Can I be permitted to give the casting vote in this case? I make this request, as there are some Senators who do not wish to sit longer, and I should not like to detain them.

The Presiding Officer—I was about to suggest to Senators, that I should insist upon the enforcement of the rule, that Senators remain in their seats. It is a very easy matter for them; they get relief by getting up and moving about.

Mr. Shipman—I do not wish to proceed, Mr. President, if I can be excused from doing so, as there are so many Senators who do not wish to remain.

The Presiding Officer—The motion to adjourn is lost.

Mr. Jenks—Mr. President, I desire to change my vote to aye.

Mr. Neasmith—Mr. President, I will change my vote to aye.

The Presiding Officer—The motion to adjourn is carried. The Senate, sitting as a Court of Impeachment, stands adjourned until to-morrow morning at nine o'clock.

Lansing, Thursday, A. M., May 23, 1872.

The Senate met, and was called to order by the President *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

The Presiding Officer—Counsel for the respondent will proceed with their argument.

Mr. Shipman, on behalf of the respondent, resumed his argument, as follows:

MR. PRESIDENT AND SENATORS:—I shall endeavor, in view of your anxiety to reach an adjournment at as early a moment as possible, to present this case as rapidly as I may, and do my duty to the respondent. It has already been long protracted, and I am aware of your anxiety to get home; and, sympathizing with that, I shall endeavor to get it together as closely as I can, and to scatter as little as possible.

However much I am tempted to wander about, or stop in spots to scan some remarks which have been made here, which I conceive are outside of the case, I shall endeavor not to do so, but to confine myself as closely as possible to the material matters in the case. There is an immense mass of testimony here, and there are really eleven different suits to try. Under the ancient English practice, I believe, each Article was taken up separately, and a judgment thereon rendered separately, and it would be much better if it were the practice here, because, as you will see, when the testimony is all in hearing upon each Article, one Article and the evidence upon it is used to help out the others. The Managers have marshaled all their forces for each attack. First they skirmish with single Articles; then they brigade them, and then they put them in column, and mass the whole upon each individual Article separately. Where the testimony would not directly bear upon it, the Manager who preceded me has sought to influence your prejudices, if nothing else, upon that Article, and yet I beg to remind you, when you come to vote upon these Articles, you must vote upon each one separately. You must be able to lay down on each Article the testimony, and say, "Is respondent guilty in manner and form as therein charged?" You cannot take the whole together,—you cannot impeach upon general principles, nor can you find him guilty of anything except those offenses charged in the Articles. You will remember the House has power to pardon all offenses committed by officials. If they do not choose to accuse an official, there is no power in the State that can do it. There is no power in

England except the House of Commons. The king cannot do it. The Managers cannot do it, with all their power.

You must, therefore, find the specific offense charged in each Article. If there be evidence which you cannot find a place for under any Article, throw it aside.

I shall not go over all of these Articles separately. I shall leave that to your own good sense; because I shall take it for granted that you are able to distinguish and sift out of the argument that has been advanced by the Manager, that which is inside of the case, and that which is not. Still, the main points I shall endeavor to touch upon. I shall first raise a point in this case, that I have already argued, and discuss it very briefly, and that is the question of jurisdiction,—a question of too much importance to be allowed to escape, whenever an opportunity is presented to raise it. This proceeding comes down to us from the English law. From thence it was derived from Germany. The practice has been settled for five hundred years, and I cannot conceive it in any way but injurious to depart from the settled rule in these cases. It comes down to us white with age,—with the dust of centuries upon it, and it has been engrafted into our Constitution, as a proceeding having a known and definite meaning. It was no new method incorporated in it, but an old one. The power to impeach officers or accuse them, is placed in the House of Representatives. It is dangerous to take it from the House, for it becomes but a precedent for another lawless exercise of power, if you do so. I consider it my duty to raise this question, not only as counsel, but as a citizen here. Whenever an attempt is made to violate the Constitution, I consider it the duty of all citizens at once to raise their voices against it. I do not, therefore, apologize for insisting upon the point now, and yet I shall do so very briefly. If the Articles of Impeachment are not properly before the Senate, you have no jurisdiction of the case. You cannot find the respondent guilty upon them unless you have jurisdiction. You cannot pronounce against

the respondent in the case when you have no jurisdiction. He can only be accused in the manner provided in the Constitution of this State. There is no Senator that can vote "Guilty" upon any separate Article, nor altogether, unless they find that those Articles are properly presented, and properly brought here.

The House of Representatives alone can accuse an officer or prefer Article of Impeachment against him, and without reading I will cite you to a few authorities in support of this position:

Constitution, Art. XII.

May's Parliamentary Practice, 645, 648.

Cushing's Legislative Assemblies, Secs. 2535, 2536, 2541, 2542, 2556, 2557, 2563, 2564, 2568.

1 Story on the Constitution, Sec. 807.

Bayard on the Constitution, 116.

Rawl on the Constitution, 210 and 215.

Federalist, No. 65.

9th New American Encyclopedia, 407.

2 Woodesson, 353, 358, Note 344, Note S. 359.

6 Am. Law Register, new series, 259, 260.

I say this is the way impeachments have been presented in England as well as in this country. Our Constitution in no way changes the method except when you come to the trial of the impeachment. It does not allow the Lower House to be in session during the trial. The reason of that rule is palpable, but I say they can and ought to be here until the issue is formed. In Tennessee the Constitution of the State forbids a trial until after the adjournment of the Legislature, the same as in this State, but the practice is the same,—the method of proceedure is the same,—the House passing upon the Articles and forming the issue before the adjournment. I refer you to Frazer's Trial, 4 and 11, for the practice. One of the Managers seems to admit that if Articles of Impeachment are necessary the House must find them, but he denies that they are necessary. If that be so, I would ask why they file Articles at all? Why are they here? Why have they ever

been filed if they are not necessary? Have all countries been in error in this matter, our own included? Besides, the respondent can only be tried upon the facts, or for the acts charged in the Articles. How can this be the rule if no Articles were necessary? And the evidence must be confined to the charge contained in the Articles. One word now from May's Parliamentary Practice, p. 647:

"The Commons attend the trial sitting as a committee of the whole House, when the Managers make their charges and adduce evidence in support of them *but they are bound to confine themselves to charges contained in the Articles of Impeachment.*"

Now, if no Articles were necessary, why need they confine themselves to anything? Why not roam at will and introduce such evidence as they choose? One of the Managers seems to doubt the position taken by his co-Manager, and admits that if there be anything in the Article,—any offense not warranted by the action of the House,—that the charge itself would be bad. But it will be seen that the House did not adopt the report of the committee, but only directed that the Commissioner be impeached for corrupt conduct in office and for crimes and misdemeanors, without specifying what crimes or misdemeanors. Under that, if the Managers could put in anything, they could put in what they chose. There is no specification of offenses at all. The acts constituting the offense should be specified by the House as well as the offenses themselves. Perhaps the matters may not amount to an offense. They should specify what he has done and for what they wish him presented for trial at the bar of the Senate. The duty and power of the Managers is contained in the Constitution itself; that is, simply to prosecute such impeachment, as you will see by section three of Article XII., and such is also the rule as laid down in Cushing, in the sections which I have cited; and this, I say, is the extent of their powers, and they can have no other powers. Under the Constitution, the House are to do two things; one is, to direct an impeachment.

This can only be done by a majority of all the members elected, and that was done in this case, the ayes and nays being called. The other is, to find the articles of impeachment,—to specify in form what the accused has done and for which they desire to bring him to trial before the Senate; and this they have not done. They may agree upon the Articles by a majority vote, not of all the members, elect but the usual majority, the same as in ordinary legislative business. An impeachment is defined by the best authority we have (1st Bouvier's Law Dictionary, 608) to be "a written accusation by the House of Representatives to the Senate, against an officer." The passage of a resolution ordering him to be impeached, and a resolution saying that the Commissioner of the State Land Office be impeached for corrupt conduct in office, and for crimes and misdemeanors, is simply directing an impeachment. It is not an impeachment. It is not the impeachment itself. I say, furthermore, that this power belongs to the House separately, and cannot be interfered with by the Senate. The Senate ought not to join in the accusation, or interfere with its exercise in any way; because they are to judge him, and to accuse and judge are functions which should be kept distinct and separate. A judge should not interfere in the trial of a case. If the Senate and House act together, it has the appearance of a bill of attainder, which is unknown in this country. Had this method been followed, the respondent might have had an opportunity to plead his cause, had he been called at the bar of the House. I cannot but regret that that opportunity was not afforded him, and while the committee in the House may have been warranted, by parliamentary rules, strictly, to have proceeded exactly as they did, still I think they might have done the other thing. I think it is proper to raise the question here and now, as bearing upon the question of the policy of such a construction as is insisted upon by the Managers here.

I will read from 2 Woodeson's Lectures, page 355:

"In the following reign of Edward III., the most usual

course seems to have been for the Commons to present a memorial to the King in Parliament, stating such offenses as they thought at the time peculiarly injurious to the public, and praying that the delinquents (without naming them) might meet the punishment of the law. After the petitioners had received encouragement from the Crown, they exhibited articles of impeachment specifying the particular culprits, and attended the prosecution through its several stages, till, finally, on conviction they demanded judgment."

I now refer to page 358:

"The accusation of the Commons is substituted in the place of an indictment, which, as appeared in the last lecture, cannot be supplied by articles exhibited by any pear or other person, nor by the interposition of the king's authority and command."

And yet the Managers can do it, it is said.

"The resolution of impeaching is usually taken in the party's absence. But there are instances where the objects of the resentment of the Commons, understanding that a charge was in agitation against them, have been permitted to plead their cause at the bar of that House, and some have been so successful as to ward off the formal accusation."

Now I submit to you, Senators, that is a far fitter practice than the one adopted by the House. That it is more in accordance with correct ideas of justice. This, which I have read, is from the old English law. We have written in our organic law, in our Constitution, that "no man shall be, unheard, condemned." That no tribunal shall pass upon a person in any way, or in any degree censuring him, without giving him an opportunity to be heard; and I submit that that should be the rule always. Again, I say, that this form cannot be delegated by the House or exercised by any other body. I cite Sedgwick's Constitutional Law, 164 and 166; Edwards on Statutes, 767; Cooley's Constitutional Limitations, 64, 115, 116; The People *vs.* Collins, Third Michigan, 343; First Wisconsin Reports, 522; First Story's Constitution, 688–9 and 743.

I raise the question here, I say again, because it is a constitutional question. When we once leave the constitutional mooring, we are drifting upon an unknown sea, without compass or chart to guide us, and making a precedent for future violations of that instrument. More especially is this the rule, and will this be the case, when it is done by the highest tribunal in the State. An analogous question was raised in the case of Hill *vs.* the People, in the 19th Mich. I shall call your attention to it, a moment. In that case there had been a trial before a jury, and one of the jurors was not properly qualified. I will simply call your attention to some remarks on page 358:

"Let it once be settled that the defendant may thus waive this constitutional right, and no one can foresee the extent of the evils which might follow; but the whole judicial history of the past must admonish us that very serious evils should be apprehended, and that every step taken in that direction would tend to increase the danger. One act of neglect might be recognized as a waiver in one case, and another in another, until the constitutional safeguard might be substantially frittered away. The only safe course is to meet the danger *in limine*, and prevent the first step in the wrong direction.

"It is the duty of courts to see that the constitutional rights of a defendant in a criminal case shall not be violated, however negligent he may be in raising the objection."

I will not detain you longer upon that question. I will proceed now to the causes of impeachment.

It has been claimed by the Managers that you are bound by no rules,—bound by no precedent,—that you may impeach for what you will. I do not believe you have any such right. I think you are as much bound by law as any other tribunal. The one who preceded me instanced a case. He says, Suppose an officer should be elected for a term of ten years, whose habits were bad, and he neglected his official duties, and yet should not be guilty of the technical misconduct in office named in the Constitution, what ought you to do? Now that

is a much stronger case than we are called upon to decide. The terms of office with us are short, new officers being elected at stated periods. I doubt, if they had had the elective system in England, that the system of impeachment would have been resorted to at all.

In this State, the terms, instead of being ten years, are two years, and the People have provided for what an officer may be impeached, and specified the causes with reference to his term of office. You will remember as to Judges, the power of removal is broader, the Governor having the power to remove them (with the concurrence of both Houses on a two-thirds vote) for causes which would not be sufficient for their impeachment. Why? Because their term of office is longer; some being for four and some six years. But in the case of officers that are elected every two years, the grounds upon which they can be impeached are specified, and they cannot be removed for any other cause. If the term had been ten years instead of two, I do not know what provision they would have put in, and possibly it might have been wiser to put in a broader rule than they did; but we must take the instrument altogether and make it harmonious. Suppose an officer should be insulted on the street, and in the heat of the moment strike a man. The act could not be justified by the law. It would be a crime, a misdemeanor, but would you impeach him for it? I do not believe the Constitution intended to include that class of misdemeanors, yet it would come within the category of misdemeanors. I am very clear that the Constitution means that nothing less than what would amount to a crime should be impeachable. And I also insist, the crime must have reference to public character and official duty. Those offenses which may be committed equally by a private person as a public officer, are not the subject of impeachment. Murder, and all offenses not immediately connected with office, are left to be dealt with by the ordinary courts. I will cite you to Rawle on the Constitution, page 215, section 5:

"The legitimate causes of impeachment have been already briefly noticed. They can only have reference to public character and official duty. The words of the text are treason, bribery, and other high crimes and misdemeanors."

You will mark that the word "office" is not contained in the article relating to impeachments in the Constitution of the United States.

"The treason contemplated must be against the United States."

So the crime contemplated in our Constitution must be against the State.

"In general these offenses which may be committed equally by a private person as a public officer, are not the subjects of impeachment. Murder, burglary, robbery, and indeed all offenses not immediately connected with office, except the two expressly mentioned, are left to the ordinary course of judicial proceedings, and neither House can regularly inquire into them, except for the purpose of expelling the member. But the ordinary tribunals, as we shall see, are not precluded, either before or after an impeachment, from taking cognizance of the public and official delinquency."

Also 2 Wooddeson, 358,—a work written soon after the Hastings Trial. It is an English work:

"Such kinds of misdeeds as peculiarly injure the commonwealth by the abuse of high offices of trust are the most proper and have been the most usual grounds for this kind of prosecution."

And in the 6th Am. Law Reg., 263:

"When the United States Constitution was framed, trial by impeachment was fully developed. It was not, however, adopted in that instrument as a regular mode of criminal procedure, to be employed in lieu of an indictment. It was made a means of trial of a crime, so far as it had political bearing. It is used as a means of depriving officers of their offices, and of disqualifying them from holding such positions in the future. Still it is requisite that a *crime* should be committed

as a basis for the accusation. The Constitution provides, in substance, that the offense, so far as it has a purely criminal aspect, should be tried in the ordinary courts; while so far as it affects the official character, it shall be the subject of impeachment."

As I have stated, the Constitution of the United States does not contain the word "office" at all.

Another proposition: The Senate are selected as a tribunal to try impeachments, instead of the courts, because of their greater and more enlarged knowledge of this class of duties, than the Judges of the courts. 1st Story on the Constitution, page 750.

This was the settled scope and object of impeachment, and still is, unless our Constitution has changed it. Such a change will not be presumed, but if a departure has been made, it must clearly appear by the law-gauge used.

The following rules of construction are to be kept in view, in reading the Constitution. The words used should be "restrained into the fitness of the matter or person." The "matter" is the conduct of the officers. The "person" is an officer,—courts try the individual. The Senate cannot inflict a punishment upon the individual, but only upon the official, and they ought not to try whom or what they cannot punish. This tribunal was established only to try officers. The words should therefore be limited to that "matter or person."

The meaning of an act is to be sought from the purview or body of the act. The "purview or body" of Article XII., in the Constitution, relates wholly to official acts and persons holding office. The whole Constitution upon the subject is to be taken and compared together. It should all be read together. Every word should be given effect, and none should be treated as superfluous. Words in one clause may be restrained by words in a subsequent clause.

It is also a sound canon of construction that all acts in *pari materia* are to be read together as if they were one law. They are considered as framed upon one system and having one

object in view; and this, although one act be subsequent. So that the amendment to the Constitution in 1863, should be read with the original law. Equitable construction is classed as dangerous. Remembering also that penal statutes should receive a strict interpretation, the general words of such laws being restrained for the benefit of him against whom the penalty is inflicted.

The Constitution provides that civil officers may be impeached for corrupt conduct in office, and for crimes and misdemeanors. He has to be convicted of an offense within these provisions, or he cannot be impeached. The judgment is official death. It is decapitation, and takes off his official head. It is penal in its nature; whether the penalty be great or small, is immaterial. It is in no way, I say, a civil proceeding,—a proceeding of this kind being only a remedy for a private wrong. The Honorable Manager who advanced the idea at the commencement of this trial, that this is a civil proceeding, has come half way over to our side. He now says that it is *sui generis*. That is, it is neither civil nor criminal; it is of its own kind; but the nature of the proceeding he does not state. It is something different from everything else; but what it is, he cannot name. I submit, that ground is rather too uncertain to stand upon, and he would be in a far better and more secure position if he would come the other half way and get where the law places him,—namely, upon the settled platform that it is a criminal proceeding. This section of the Constitution relates only to acts in office,—official acts. Would it not be absurd to impeach in one case only for corruption in office, however rotten the individual might be outside, and yet impeach him for crimes and misdemeanors outside of his office? Was it intended to make a division of offenses,—to make two classes, one inside and the other outside of office, for which an impeachment would lie? Yet it is certain that the corrupt acts must be confined to his conduct in office, for the Constitution so expressly declares. It was never intended, by that

instrument, to include a different kind or class of offenses than those enumerated, namely, acts in office.

It would have been idle and useless to have repeated the words "in office" again, at the close of the sentence, for being once in they are sufficient to denote the genus or class referred to in the sentence; the rule being this, that all things, different in genus or description from those enumerated, are excluded; and the rule is founded upon this maxim, that the express mention of one kind or class of things or offenses in the law, implies the exclusion of all others.

You will remember the language of the Constitution: "for corrupt conduct in office or crimes and misdemeanors." If you would put the words "in office" at the end of the words "crimes and misdemeanors" in that sentence, you would make a very lumbering sentence of it. I conceive it to be unnecessary. When it is once stated, it defines the class of the offenses, and it would be useless to repeat the words. I think, in almost all of the Constitutions enumerated in the opening of the learned Manager, impeachable offenses are limited to crimes or offenses in offices. Is our Constitution a departure from that policy?

But it will be observed that the words "corrupt conduct in office" are not in those constitutions. Except in one instance the words used in those constitutions are "crimes and misdemeanors in office," but the words "corrupt conduct" are not there. Had they been, the words "in office" would probably have been located in the sentence just where it is in ours.

Again, why was not our Constitution made more specific and definite, if a departure from the settled rule was intended, as in the case of the North Carolina Constitution?

I will call your attention to a statement made by the Honorable Manager, upon page 70 of the Impeachment Proceedings, with regard to that Constitution.

They have six causes there, six specifications as to when an officer may be impeached. The sixth is this: "Any criminal matter, the conviction whereof would tend to bring his office

into public contempt." Now, if our Constitution meant anything of that kind, why was it not stated. The Honorable Manager was not able to see the meaning of that language, he said in the opening. It is very plain to me.

Mr. Manager Grosvenor—Will you allow me to interrupt you right there?

Mr. Shipman—Certainly.

Mr. Manager Grosvenor—The North Carolina statute to which you have alluded is a statute. The Constitution is a general Constitution, giving power to impeach, and the statute defines the offense.

Mr. Shipman—But we construe the statute and the Constition on precisely the same rule. Can it be claimed that these words in our Constitution include ordinary misdemeanors,—for instance, any kind of technical crime that may be committed outside of office? Was it intended for any little mistake which may amount technically to a crime committed by an officer upon the street or in any place, that the ponderous machinery of the Senate and the House should be put in motion, and the officer should be punished for it? I cannot believe any such thing. I think it is a bad precedent to establish; and yet it must mean all, or only those which are official offenses. You can nowhere draw the line between grave and light offenses; you cannot separate one from the other. The Constitution means the very slightest assault and battery,—it means the act of simply putting a hand on a man in anger, or it only means those matters or offenses which are connected with office.

The case of Andrew Johnson has been cited as a precedent of high standing; such it is not, and never will be. There are few men in this country, whatever their political opinions may be, who will give the case that eminence, or do otherwise than rejoice at its failure. But Andrew Johnson was acquitted; as a precedent, therefore, the case is against the Managers. Besides, the Articles charging him with making certain speeches

at St. Louis and Cleveland, were charged as misdemeanors in office. In other words, they were at least charged to be official violations of the Constitution of the United States, whereas in this case, the Eighth, Ninth, and Eleventh Articles purport to be a violation of nothing except the statute law,—the Ninth being a law of Congress at that. It is not even alleged, or in any way appears, that the acts charged are such offenses as are contained in Article Twelve of the Constitution of this State. It will also be observed that the Constitution of the United States, Section 4, Article I, does not contain the words "in office," at all, as stated. It simply provides that officers of the United States shall be removed from office, or impeached for, and convicted of, treason, bribery, and other high crimes and misdemeanors. But the Articles of Impeachment against Andrew Johnson charged him in terms with high crimes and misdemeanors in office. If, therefore, the case is of any force, it is on the other side of the question than where it has been used by the Honorable Managers.

It will be further remarked, that the only Articles voted upon in that case, were based upon the removal of Stanton as Secretary of War, or appointing Thomas Secretary *ad interim*. The other matters, including the stump speeches, not being acts in office, were finally abandoned. I ask now, on which side is the Andrew Johnson case? The amendment submitted in 1861, and adopted in 1862, being *in pari materia*, is to be read with Section 1, Article XII. Is was intended, by that amendment, to give to the Governor, when the Legislature was not in session, the power of removing certain officers, in the same case where the Legislature might impeach and remove them if they were in session; except that it also includes gross neglect of official duty. No one will claim that this provision applies to any other than official acts.

The next proposition is, that the proceeding is criminal. I will cite you to Cushing, 2539, without reading, upon that point; also, to 2 Wooddeson, 355, 364, and 371:

"In the last lecture two distinct modes of criminal prosecu-

tion were reserved for future inquiry, namely, proceedings on impeachments, and penal acts of parliament occasionally passed against particular offenders.

"It is certain that magistrates, and officers intrusted with the administration of public affairs, may abuse their delegated powers to the injury or ruin of the community, and at the same time in offenses not properly cognizable before the ordinary tribunals. The influence of such delinquents, and the nature of such offenses, may not unsuitably engage the authority of the highest court, and the wisdom of the sagest assembly. The Commons, therefore, as the great inquest of the nation, become suitors for penal justice."

On page 364 he says:

"I have now mentioned, in their order, some of the more important preliminaries. As to the trial itself, it must of course vary in external ceremony, but differs not in essentials from criminal prosecutions before inferior courts. The same rules of evidence, the same legal notions of crimes and punishments prevail; for impeachments are not framed to alter the law, but to carry it into more effectual execution where it might be obstructed by the influence of too powerful delinquents, or unascertained in the ordinary course of jurisdiction by reason of the peculiar quality of the alleged crimes. The judgment, therefore, is to be such as is warranted by legal principles or precedents. In capital cases the stated sentence is to be specifically pronounced."

On page 370 he says:

"Impeachments, as we have seen, are founded and proceed upon the laws in being. A more extraordinary course is sometimes adopted. New and occasional laws have been passed for the punishment of particular offenders. Such ordinances are called bills of attainder, and bills of pains and penalties. These are, according to the plan formerly delineated, the only species of criminal prosecution remaining to be treated of, and will be the subject of the next lecture."

The 6 American Law Register, 266, 267, and 268, I will not

take up your time by reading what I have already read, but I will read upon page 267, which is as follows:

"The trial differs not in essentials from criminal prosecutions before inferior courts. The same rules of evidence, the same legal notions of crimes and punishments prevail. For impeachments are not framed to alter the law, but to carry it into more effectual execution where it might be obstructed by the influence of too powerful delinquents, or not easily discerned in the courts of ordinary jurisdiction, by reason of the peculiar quality of the alleged crimes. The judgment thereof is to be such as is warranted by legal principles or precedents."

Again on the next page:

"I have dwelt the longer on this point because many seem to think that a public officer can be impeached for a mere act of indecorum. On the contrary, he must have committed a true crime, not against the law of England, but against the law of the United States. As impeachment is nothing but a mode of trial, the Constitution only adopts it as *a mode of procedure*, leaving the crimes to which it is to be applied to be settled by the general rules of criminal law."

That is not a partisan brief.

The brief of Mr. Lawrence, that has been read from, and which is found also in the American Law Register, was prepared for the use of Benjamin F. Butler upon the impeachment trial of Andrew Johnson, and it is the brief upon which his argument is based; and if you will look at the first volume of the proceedings there, at Mr. Butler's speech, you will find that brief just as it is here, only, perhaps, a little more elaborate, Mr. Lawrence being somewhat biased upon that side of the question; but against Mr. Lawrence I will read a very little from another Manager in that case, Mr. Wilcox of Iowa, and no one certainly can charge him with bias upon the other side of the case. I will read from the reports of committees of the first session of the 40th Congress, page 62. It is as follows:

"The Senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath

or affirmation. When the President of the United States is tried, the Chief Justice shall preside, and no person shall be convicted without the concurrence of two thirds of the members present. When the Senate is organized under this section of the Constitution as a high court of impeachment, it is simply a court of special criminal jurisdiction,—nothing more, nothing less. It is bound by the rules which bind other courts. It is as much restrained by law as any other criminal court. It is not a tribunal above the law and without rule to guide it. If it were, it might well be addressed in the language of Burke in one of his speeches in the Hastings case, when he said, 'This high court, * * * this highest court of criminal jurisdiction, exercised upon the requisition of the House of Commons, if left without a rule, would be as lawless as the wild savage and as unprincipled as the prisoner who stands at your bar.' (Burke's works, vol. 8. p. 8.) No man would be safe before such a court—a court that could make the crime, determine its mode of proof, pronounce and execute judgment, without restraint from the Constitution or laws of the land. No such irresponsible engine of wrong and oppression has been created by the Constitution. The British Constitution allows no such unrestricted power to the House of Lords."

"An impeachment before the Lords by the Commons in Great Britain, in Parliament, is a prosecution of the already known and established law, and has been frequently put in practice, being a presentment to the most high and supreme court of criminal jurisdiction, by the most solemn, grand inquest of the whole kingdom [4 Blackstone, 259]; and when this most high and supreme court of criminal jurisdiction is assembled, for the trial of a person impeached for a violation of the 'already known and established law,' it must proceed according to the known and established law, for although 'the trial must vary in external ceremony, it differs not in essentials from criminal prosecutions before inferior courts. The same rules of evidence, the same legal notions of crimes and punishments prevail.' (Wooddesman, vol. 2, 611.) A doctrine which

would assert for the Senate of the United States greater and more despotic power in cases of impeachment, than is possessed by the House of Lords, will never be accepted by the American people."

I will read one section upon page 54, which is as follows:

"It is claimed, by those who oppose the doctrine herein advanced, that it is contrary to the current of the English and American authorities. This is an error which a careful examination of the cases will not fail to expose. Comparatively little attention has been devoted to the power of impeachment, and to the laws and principles which govern it, in this country Popular opinion is more at fault with respect to this subject, than perhaps any other within the entire range of the Constitution. It is generally considered a kind of unlimited, undefined, and undefinable power, whose proper office it is to supply all defects of law, and to provide all desired remedies respecting civil officers and their official conduct,—a patent medicine for the speedy cure of all cases which baffle the skill of the regular practice. It seems strange that this idea should have become so prevalent, for it has not a fair, impartial, well considered case, in either the United States or Great Britain, to support it."

There is the opinion of one of the Managers in the Andrew Johnson case. It cannot be said that he was prejudiced.

Now look at our Constitution just a moment, and see if it does not mean the same thing. It says: "No person shall be convicted without the concurrence of two-thirds of the members elected." The word "conviot" is not used in a civil proceeding, *sui generis*,—half fish and half fowl. Again: "Judgment, in case of impeachment shall not extend further than removal from office; but the party convicted shall be liable to punishment according to law." Again, I will refer to page 55 of the manual,—you are all familiar with it,—as to the power of the Governor to grant reprieves and pardons:

"He may grant reprieves, commutations, and pardons, after convictions, for all offenses except treason and cases of im-

peachment." Does our Constitution mean a criminal proceeding, or not? It seems to me, not only the settled rules are that way, but the Constitution itself is. I furthermore say that the offense must be one known to the Constitution and the laws. It is a prosecution for the violation of existing laws, and you, as a Court, cannot make a law; the power is not given to you. The Articles must fully, plainly, substantially, and formally describe the offense to the respondent. The charge must consist of the breach of some positive law. No man shall, under any circumstances whatever, be tried upon anything but a known law.

I shall now glance very briefly at the facts, and at some remarks that have been made by the Managers who have preceded me.

Are you aware of how much business there is in that Land Office; of how much land is there handled; of the opportunities to make mistakes, and the confusion that has been there, and might well be there under even the best management of it? I want to make a statement now, to give you some idea of what the business of the office has been, that you may see the difficulties in the way of the Commissioner. You will remember that a very few isolated instances or transactions have been brought out in evidence. You have had a contract in evidence called the Bathay contract, or something has been said about it, covering and containing about 63,000 acres of land, in five contracts, all figured up together. Now, there are 1,409 townships in this State containing swamp land, or there was at the commencement of the fiscal year of 1871, north of the base line. The average number of acres in a township, vacant, was 2,226. The total of acres in the State vacant was 3,136,889 44-100. The number of "forty-acre" tracts that this would make would be over 75,000. The amount of contracts unfinished at that time, amount to $372,121.98. Contracts since that date, $152,259. It will take over 420,000 acres of land to pay for them,—it would take about 10,500 forty acre tracts to do it. Have you any sort of an idea, how many marks that will make

on the books to mark these all up? Would it be strange, if in handling that amount of land, and figuring contracts altogether, as had been the practice of Gen. Pritchard, that occasionally mistakes should occur. More particularly by a person who has not been familiar with the routine of the office,—to whom the business is entirely new? "To err is human." The amount of the largest contract is $97,710.87. The contracts average $14,000 during the fiscal year. To Sept. 10th, 1871, there were patented on road contracts, 307,203 acres of land, while in the preceding year, only 195,173 acres were patented, leaving a balance in favor of 1871 of 112,030 acres. The fiscal year of 1870 contained twelve months, and the fiscal year of 1871 contained only ten months. So much for the business of the office.

I will now call attention to some remarks of the Manager, made yesterday. First, he speaks of the Allison matter,—of the Allison, Bush, and Hewitt matter. You will remember it. You will remember that Hewitt made an application on the 6th day of July, 1871, for five forties of school land, putting up a quarter payment, telling the Commissioner to hold it a few weeks, or a few days,—I forget which,—until he could get the name of the party who lived out of the State, who wished to buy the land. The Manager says: "I have a suspicion that the application was put in, and dated back." I do not doubt it, but you have no proof of it, and we are not responsible for your suspicions. There is no evidence before this Senate that the transaction was other than in good faith, and we are not to answer for suspicions of the gentleman, emanating from an imagination which has become heated and excited during the progress of this trial. Such is not the proof. The evidence is the other way.

It is said that Allison went into the office, and made his application in October. It is a mistake; he did not make his application in October. There is no such evidence. Mr. Allison did not know at that time that he wanted the lands; he wrote to Mr. Barnard, to find out whether the land was vacant

or not. Mr. Barnard wrote him back, that it had been disposed of. Look upon pages 144 and 146 of "Impeachment Proceedings," if you wish to, and you will see that he did not know then as he wanted the lands, when he talked with Barnard. He went to the office, and was informed by Barnard that Hewitt had the lands, but he had not found out that he wanted them at that time, nor had he the money there to have paid for them, if he had. He wrote after that, he wanted three forties; but he had not the money for them. The truth of the transaction is this: That he came here and found Hewitt's name on the land, and then took it for granted that it was good land because he had reserved it, and he wanted it all at once and proposed to get it away from Hewitt. In October, he did get some land,—about the first of October, but no steps were taken in this matter until the 30th of April or the 1st of May. Now I call your attention to the fact that these proceedings were then pending. He says that he talked with the Commissioner of the Land Office,—in the back office of the Land Office,—the headquarters of the respondent's counsel, as has been said. The respondent was not in Court, but probably with his counsel. It is to be presumed, from the evidence, that the respondent's counsel was advised of these facts. It may be inferred that Mr. Edmonds, intending to do exactly right in the matter, consulted his counsel, knowing that whichever he ruled in favor of, the other would be against him. I will not say that order was sent in for a purpose other than to buy the land. I do not know that to be true; but let me say, it looked as though they were going to make use of it as evidence in this case. He came into the office then, on the 30th of April, or 1st of May, in reference to that land, and the application of Mr. Hewitt was placed there July 6th, 1871. You have got the whole case right there. It is fair to presume that Mr. Edmonds' counsel turned to the 19 Mich., to see what he should do in the matter, and we will do so now, and see what we were to do in the premises.

The Honorable Manager has said that this case of Estabrook *vs.* Pritchard, page 470, was a proceeding between two individuals. I beg pardon, but the gentleman is mistaken. It is not a proceeding between two individuals. It is, The People on the relation of John S. Estabrook *vs.* The Commissioner of the State Land Office. The question raised in the case was, what was the duty of the Commissioner in the matter? Not a controversy between two individuals. I read now from a statement of the case, upon pages 470 and 471:

"The relator, in this petition, states that on the third day of July, 1867, he applied at the State Land Office, to purchase all of a certain section of school lands, except one forty-acre lot, being in all six hundred acres; that he was informed by one Nash, chief clerk and book-keeper in the office, that the said lands would be secured to him on the payment of two dollars per acre; that he paid into said office the sum of two dollars per acre, being twelve hundred dollars; that his name was written upon the plat of the said lands, in the tract-books of said office, in his presence, and that he was informed by Nash that this entry secured the lands to him, but that he could not procure a certificate or patent, until the full amount of the purchase money was paid, as the lands were chiefly valuable for timber, and, under a recent ruling of the State Board, no certificates or patents were issued on lands of this character, until after full payment of the purchase money; that he then stated he would pay the balance remaining due whenever he should be called on, upon the shortest possible notice, but that he had not, at that time, sufficient funds with him to make full payment; that he was informed that if anything further was required of him he would be notified of the fact by the Commissioner, and that the lands could not be sold to any other person."

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I will not read all the facts, but I wish to give you an idea of the case.

It states also that on "the 13th or 14th day of October, 1868, when he received a letter from the Deputy informing him that other parties had filed an application for a portion of said lands, and that relator was only entitled to three hundred acres." In other words, he was entitled to so much land as the draft deposited would pay for; "whereupon he immediately went to Lansing, and on October 15, 1868, tendered to the Deputy Commissioner the balance of the purchase money, together with interest, which the Deputy received,—not admitting his right, but refused to issue a certificate on the ground of a conflicting application; but the Commissioner allowed the relator to select the east half of said section, and to receive a certificate therefor, without waiving his right to insist upon a certificate for the balance also."

* * * * * * * * * * *

"The answer of the Commissioner sets forth that it is a rule of his office, established in the winter of 1867, that none of the primary school or other trust-fund lands which were principally valuable for the timber thereon, and not for agricultural purposes, should be sold, unless full payment of the purchase money was made at the time, and that his Deputies and all his employes have been thoroughly instructed to enforce said ruling strictly; that, in the disposition of cases which have arisen under said rule, where parties have attempted to purchase lands on part payment, he has adopted the practice of allowing such party the privilege of selecting sufficient of the lands applied for to meet the full amount of the money deposited, at the minimum price, full payment; that sometime in the month of October, 1868, his attention was called to an application of Arthur Hill, which was as follows:"

* * * * * * * *

I will not read that.

"That on examination he found the land mentioned in said application was marked in pencil upon the books of the office, to said Estabrook, and that he had deposited one-half payment against the same, and had given no additional security;

that on learning the condition of the lands, he directed his Deputy to notify Estabrook, at once, that he must make a selection of the amount of land he was entitled to under the ruling above mentioned. That on receiving said notice, Estabrook refused to make such selection, and made verbal application to pay for the whole, but did afterwards, in January, 1869, announce that the east half of said section was his choice if he could not have the whole, and that the east half was patented to him without prejudice to his supposed rights. That Hill, at different times, applied for a patent of the other half, but though the Commissioner considered him entitled to it, he declined to issue one until the conflicting claims were judicially determined."

The Court decided that he could hold the three hundred acres, which was as much as his draft would pay for; and the other party, they said, was entitled to the balance. You will remember that another application had been made, in that case, for the land, while in the case of Allison there was no application at all, except for the particular forty selected by Mr. Hewitt and Thomas, and you will remember that they got the imformation of what forty had been selected from Mr. Bush, on the street, and that it was referred to Mr. Thomas, in the office; so that nobody can say that they were informed, or got information in the office, which could in any way prejudice the application of Mr. Allison.

Judge Campbell delivered a dissenting opinion in that case; but he not only agrees with the majority of the Court—with Christiancy, Graves, and Cooley—upon the law, but he goes further, and says that Mr. Estabrook was entitled to all of the land upon that half payment, and could hold it all even without the money being paid in. It also appears, in this case which I have read from, that the money was not paid into the State Treasury at all; a draft for the money was simply left with the Commissioner, and the land marked up. Another question has been raised in this case, and that is, Why was not that check or the money upon it, paid into the State Treasury?

and the Manager has commented a great deal upon it, charging that the State lost the interest on the money. Let me tell you, gentlemen, if you are not already aware of the fact, that the State Treasurer would not receive it. He will not receive money for land unil the land is sold, and I am surprised that the Managers should even talk of it or raise a question about it. The certificate has got to be issued before the money could be paid to him, for he would not receive it before. The money is, in fact, left in the office with the individual, really, more than it is with the officer,—the Commissioner. He holds it or not, as he has a mind to. The Commissioner is not a receiver, technically speaking, and the question has been raised whether, if you wanted to make a tender for land for sale in the Land Office, the money should not be tendered at the State Treasury,—whether or not he has any right,—whether the Commissioner has any power, to receive it. He certainly takes it merely to pay it over to the Treasurer, and for no other purpose; and as I look upon it, it would make but little difference whether it was deposited with him or was deposited somewhere else subject to his order,—it could not get into the Treasury in any case until the and was sold. We are asked, Why was not the land sold and patented up at that time? For this reason: that the Commissioner did not know whether he could sell the land on quarter-payment or not. You will remember the statute of 1863 provides that if the land is chiefly valuable for timber, he is to sell it for full payment or require some security for the balance unpaid. Suppose a man comes into the office and applies for primary school land, can he have it on quarter-payment? The Commissioner says, "I do not know." He has not the necessary information about its value aside from the timber upon it, to know whether it will be safe for the State to sell it on quarter-payment. The party puts down his money, his quarter-payment on the land, or half of it if he chooses. The Commissioner cannot sell it until he has got that information. He may get that information in a week; he may get it in six months; he may get it in a year, and he may not get it in five years, for the law has pro-

vided no way for him to obtain it. He has no way of getting this information inside the office. The law does not say how he is to get it outside, but leaves him to his own resources. There is no rule of law about it, as to where, how, or when he shall get it. There is nothing in the law to drive him out into the woods to get it; but until he does get it, and the land is patented, there is not a dollar in his hands which belongs to the Treasurer, and there is not a cent's worth of interest that the State can lose. He may get this information from various sources, but until he has got it he does not know what answer to make to the applicant. He cannot sell him the land, and consequently he must hold the money or pay it back to the party, just as he chooses. Now suppose a third party comes in, as in the case of Allison, and applies for a part of the land, as he did on April 30th, and makes a written application for it. He merely talked about it before, but never made an application in form until that day. What is he to do? At once, it is apparent to the Commissioner that something must be done in the matter. The new applicant offers to make full payment for the land, and he cannot hold it longer. It becomes his duty, to sell at once; but to whom? He notifies the party first applying,—under the rule adopted by Gen. Pritchard,—that an application has been made and he must make a selection of such an amount of the land as will equal the money he has deposited. Suppose that he selects the particular piece that the other party has applied for? The first applicant would have the preference. In this case, Allison did not apply for the balance of the land held by Hewitt on his deposit of quarter-payment. He came in and applied for a specific forty and it was the identical forty that Hewitt, or Thomas for him, selected an hour afterwards, as soon as he got the information from Bush on the street, and stepped into the office and applied for it, and then he also applied for the balance of the land,—so that the money could not have gone into the Treasury, when the check was left, even if it had been cash. If it had been gold or greenbacks, depos-

ited with the Commissioner, he could not have put it into the Treasury,—could not have sold the land. I do not see what the State had to do with the transaction, until a sale was consummated. Now, would the Commissioner have a right to receive a check? In the case which I have read, it is decided that he may receive a draft as cash. He may receive paper that he has reasonable cause to believe will be paid, that represents money. He therefore has a right to take a check. They say this check would not be paid, as it was payable to Hewitt's order and not indorsed by him. I cite you to the fact that it was paid, and the money received on it on presentation; Mr. Bush being informed, if my recollection of the evidence is correct, that if the check was not paid he could have the land. I know the question was asked him whether that was so, or not; although I do not quite remember the answer. However that may be, if it was the custom of that bank to pay Hewitt's checks unindorsed, that is sufficient, for it would be a good check. The check was payable to his own order; but I apprehend it would be transferable by a delivery sufficient to vest the equitable title to it in the holder, even under the old common-law rule.

But suppose a man should write to the Land Office, and request that a certain piece of land should be held a few days until he could make arrangements about it, would it be a crime for the Commissioner to do it? That was the practice of the office under General Pritchard. The law is silent as to whether he may or may not do so; and if, as a matter of accommodation, he should do that without pay, can it be successfully maintained that the transaction would amount to corruption in office? Such cases you will find scattered all along through the Supreme Court reports of this State, and you cannot show me one where the courts have given costs against the Commissioner for holding land in that way. Look at the case of General Parkhurst *vs.* General Pritchard, in 17th Michigan, or this case that I have just cited from the 19th Michigan Reports. The Court there say that

the officer acted in good faith, and no costs should be awarded against him. Can you find him guilty of corruption in the same case? A practice of the office may obtain and become a law of the office, almost, in the absence of a written law. Where the law is silent, the Commissioner may follow the practice; but where the law speaks, the practice must yield to it.

The Bathay contract has been referred to by one of the Honorable Managers, and something said about the orders given by contractors, and the directions of the Commissioner in regard to them. He says: Why are they not produced here? For the simple reason that the directions given by the Commissioner, as to what future orders drawn by contractors should contain, was a verbal instruction. It was a matter which rested in parol. It was not in writing. He told them, after that, that they should only take such orders as would carry the scrip. The Manager says, also, the Bathay order was for Hewitt's benefit. If you use the word in one sense, it was,—that is to say, he was bound to let him have certain rights under his contract. To that extent it was for Hewitt's benefit; but what he paid for it I do not know and do not care. If he got it for less than its face, it is none of my business. I do not know that it is any of your business. If he paid three times as much as it was worth, what is the difference? The only question is, the right it gave him in the contract. The testimony, as to what was the consideration for it, was ruled out, and because it was ruled out, the Manager seems to think it is a very strong piece of evidence against us. It is quite as strong as some he has called evidence.

Then again, there is a large amount of land, he says,—thirty or forty thousand acres,—held on matured scrip which has not been patented up; and he says this land should be patented up by the first of March, or the patent should be issued within thirty days after the scrip matures, the reason being that the lists might go to the several counties and taxes be imposed by the proper officers. You will remember that the directions

given by the Commissioner in regard to patenting up those lands was, that all contractors be notified that they must take their patents, or selections would be made and the patents for the lands issued by the office, as required by the law of 1869. You have had perhaps a suspicion why that has not been fully complied with by the Commissioner. Part of it has been done; but the Commissioner has been busy since that time, and if I were going to charge this neglect upon any one, I should charge part of it upon the action of the House committee which has had a tendency to interrupt the work in the office, and has taken the time and thoughts of the Commissioner, for the preparation of this defense. Still, some of it has been done, and the balance is being patented as rapidly as possible. It is not very material that it should have been done on the exact day, however,—such statutes being directory merely. It is being done as rapidly as possible, and will be completed at an early day. No corruption can be charged upon the Commissioner for this delay. He is not benefited a dollar by it; he does not receive a cent by reason of it.

With regard to selling lands, and allowing his clerks to do so: The Manager says that Barnard and Griswold sold lands belonging to the State. He says also that the Commissioner knew of the sales to Monroe and Hudson, and that we do not deny it. If we have not denied that, I beg to deny it now. I will repeat it: He knew nothing about it, and there is not a particle of testimony in this case showing that the Commissioner knew of any of these transactions. There was not a record in the office from which he could find them out. The proceedings were all regular; there was nothing on the papers or records to even excite suspicion. I care not how vigilant he might have been, he could not have ascertained it. There is not a witness who called his attention to it. The *onus* lies upon the State to show this knowledge, not upon us to prove our innocence. That hideous legal malformation of Charles Sumner, that the State is entitled to the benefit of the doubt

in an impeachment case, has never become a law, and never will in a civilized country. At the time he announced it, the assertion was received with an universal shout of indignation. It has never been the rule in any court in Christendom, and it never should. If the Commissioner must prove his innocence, why offer any proof at all? Why not simply file the articles, and say, Mr. Commissioner, prove your innocence? Why require any proof, if not full proof? In this case there is not a particle of testimony that he knew anything about those sales. On the other hand, the testimony is positive that he did not. When you come to look at the act of 1861, you will observe that while it prohibits any officer or clerk employed in the State Land Office from purchasing land from the State for sale at such office, it does not prevent their buying it from an individual. They are only forbidden to purchase it from the State. Did Mr. Barnard do that? I ask you, as a matter of fact, did he purchase from the State? The land was reserved; it therefore belonged to Hall. Nobody else could control it. It could not be patented up except on his scrip or order. No one in the world could get it, or buy it of the State; the State could not sell it, for it had already sold it, practically. Was it land *for sale* at the State Land Office? I say it was not. The Honorable Manager says the fee was yet in the State. Is not the fee in the State in the case of primary-school lands, sold on quarter-payment, just the same? You pay a quarter-payment and get your certificate of purchase from the State; still the statute provides that the fee shall remain in the State, until paid in full; but will it be insisted for a moment, that any one might not trade in those lands,—that a clerk, or officer in the Land Office, might not, with the person who held the certificate,—just as much as though a patent had been issued? The land may revert to the State again if the interest be not paid, but that is all. This land which Barnard traded, you could not buy, and I could not buy, and the statute was intended only to apply to such land as you, or I, or any one might buy for cash, at the office;

whereas these lands could only have been bought of Hall. It applies only to lands in the market; and another law expressly provides that where land is reserved on a contract it shall be withdrawn from the market and cannot be sold. We therefore claim that Barnard did not buy land that was for sale in the State Land Office,—and at all events, if he did, the Commissioner had nothing to do with it, and knew nothing about it. But Barnard did not pay anything for the land to Hall, the Manager says. You have Potter's testimony upon that point,—whether he did or did not, I have not inquired. I don't care. One thing is certain, however, that Hall can maintain an action of assumpsit for the price of that scrip, if he got it of Hall and has not paid for it, and I shall leave the question to the adjustment of the parties. But the Manager also says that certain descriptions of land were reserved to Hall, which he knew nothing about. He is mistaken in the testimony there. Mr. Hall said that he only had two of them on his book, and that was all he could testify about the land reserved, from the memoranda he had. You will remember the "arrangement" Mr. Hall had about getting those lists of lands. It was an openly expresed wish or request that Mr. Potter should be informed of vacant lands. There was no secrecy about it,—nothing hidden; but simply a request made to a number of the clerks in the office, to furnish lists of vacant lands to his agent, Mr. Potter, to be reserved on his contract,—a favor that any party or any contractor might have got. The Commissioner had no interest in it, or even knowledge of it. There was not one dollar went into the Commissioner's pocket for the information. He had no interest in the land at all; even Barnard, Mr. Hall tells you, had no interest in it.

As to the 1,940 acres which Mr. Bush got, you will recollect Mr. Hall's testimony about them is, that when the land was reserved, he never supposed that Mr. Bush had any interest in it at all. Afterwards, Mr. Bush claimed it, and Hall let him have it, simply because he claimed he had looked the land,

and therefore it was his, and he ought to have it,—and so Mr. Hall let him have it. That is about all you can make of that matter. So far as Barnard is concerned, it does not appear he had anything to do with it; besides, it occurred mostly before this Commissioner went into the office. It was put in here, under the statement of the Managers that they proposed to bring it to the knowledge of the present Commissioner. I do not propose to state, as one of the Managers intimated about a statement made by my brother McGowan, as to certain matters which we expected to but did not prove, that they intentionally misstated their case. Honorable counsel do not do that. The Honorable Managers would not do that. They may have been, and were mistaken, as to what they could prove; but they did not willfully make a misstatement about it. I suppose, of course, the Honorable Managers were mistaken, because otherwise it would be getting in testimony under false pretenses, and the Honorable Managers would not do anything of the kind. There is no testimony connecting Mr. Edmonds with that transaction; and my brother McGowan has ventilated it sufficiently. It had more to do with the sale of minutes obtained outside of the office than the selling of land. I do not find that in 1871 there was any transaction between Bush and Barnard; if there was, we do not know anything about it.

Comment has been made by the Honorable Manager, upon the non-production of the Commissioner upon the witness stand, according to the practice in criminal cases in the courts. The practice is altogether new and unsettled in impeachment cases as to whether the Commissioner could or could not make his statement. It is clear, however, he could not be sworn. It is possible that, in analogy to the practice in a criminal court, he might make a statement, unless you make this a proceeding, as the Honorable Manager claims, not criminal, but *sui generis*,—neither criminal or civil, but half way between. If that be its true position, he would have to be half sworn, I suppose, and if it is a criminal proceeding he could

not be sworn at all. But I call the attention of the Senate to the fact that the courts of this State have held that counsel may not comment upon the absence of a respondent statement in criminal cases, and that they commit an error in so doing. And cases have been reversed on that ground. The Commissioner was quite willing to make a statement in this matter; but we did not wish to take up time fighting the air, or explaining matters which were made clear enough by the testimony already in. I state, therefore, that it is the respondent's counsel and not the Commissioner who is to blame for his not going on the stand. No inference against him could in any case be drawn, even if he had a right to make a statement and did not do so. The Managers in referring to it were entirely out of order, and in my opinion ought to have been stopped.

Now, in regard to Mr. Clarke's matter: It is said that the Commissioner must have known of that case, as he ordered the land to be made up on Barnard & Co's scrip. The order was signed by O. B. Clarke, a gentleman who lives in Cold water, so the evidence shows; the money was paid by him, and the direction on the bottom of the paper was to enter with scrip. If there was anything on the face of that order to inform the Commissioner that the clerk, Henry C. Clarke, was to be benefited by that transaction, I do not know where the evidence is.

A word in regard to the Dwinell matter: You will remember that Mr. Bush had a piece of land marked up to him which was afterwards marked to Dwinell. Bush went to the office and wanted the matter explained, and it took a clerk an hour to explain it to him. It appears the reason was this: that Bush had not the necessary credit and he could not hold the land. Mr. Van Dunham, it is claimed, was interested in that land. That may be so. He asked the Commissioner, however, as though it was for another party, whether or not Bush could hold the land. The Commissioner looked at his credit and said he could not. Not a word was said to him that Van

Dunham had any interest in the land at all. The proof is, that he did not tell him; and even under the rule sought to be established by the Honorable Manager, I take it, that when proof and presumption come together, presumption must go down.

In regard to the licensed land, mentioned by the Manager yesterday, he said he would show that Edmonds was interested, because the parties bought the scrip of Barnard & Co. That is what the charge of corruption is now based upon. That is the way it is claimed the Commissioner acted corruptly in the matter. The Manager has abandoned the idea that he had any interest in the land at all, or that there was no arrangement between Hoyt and the Commissioner. He canceled the Cornell certificate, and thereby lost his profit on the scrip; and refused to cancel the Hoyt certificate, because he wanted his margin on that scrip. He did the first, notwithstanding he would lose his profit on the scrip; and yet, it is said, it was the profit on the scrip sold to Hoyt that prevented his canceling the Hoyt certificate. His love for profit on scrip seems to be somewhat fickle; but I will get to this license question directly.

He also says it is strange when he (the Manager) went to the office to inquire about the Woolover matter, the Commissioner should take him into the back office, and the first clerk he should bring to him was Van Dunham, the clerk that was interested in it. I do not recollect that there is any such testimony in the case; but even grant that it was so, it would have been much more reasonable if the Commissioner should have brought to Mr. Huston, to talk with him about this transaction, the very clerk who was interested in it, who was the party conspiring with somebody else outside the office to get the land away from the settler, if the Commissioner had known of it. I submit, that entirely the opposite of the inference drawn by the Manager, is the true one. It is of itself evidence that the Commissioner did not know that Van Dunham had anything to do with it at all. "What authority," he says, "had the Commissioner to take fifty dollars out of the Treasury

and cancel Cornell's purchase? He did not do it in Hoyt's case; he would not do it for Conley, but he did it in the Cornell case. What right had he to do it? Either he corruptly canceled that certificate, or corruptly refused to do it in the other case." Now gentlemen the Commissioner had no power; there is no law, that I know of, giving him authority to cancel the certificate that was issued to Cornell. I do not find any such law. He violated the law there, probably. I should have been quite willing for him to have violated it in the other cases if he could, and I would take pleasure in defending him for doing so. It took fifty dollars out of the State Very well, Was that corruption in the Commissioner? Did a dollar of it find its way into his pocket? Was he not trying to help the settler get back his land? Did he not act in the utmost good faith, to help a poor man to get back land, which, by his (the settler's) negligence, he was likely to loose? Did he act willfully and corruptly, or with good motives? Do they claim that because a man violates the law, he therefore commits an impeachable offense without regard to his motive in doing so? Why, Mr. Lincoln declared martial law, and the courts said that he had no right to do so,—that it was an illegal act. Could he have been impeached? Was the act an impeachable offense?

His Excellency Governor Baldwin has called upon United States troops to assist in quelling a riot in the mining region. Some people say he had no right to do so. It may be a violation of the law, possibly; shall he be impeached for it? Can such an idea be entertained for a moment. Can you establish one rule for one officer and another for another? I think not. But there is another question about canceling the certificate and getting back the $50, and that is, there is no Article you can bring it under. You may search these Articles from the commencement clear through, and there is not a word, a line, a sentence, an intimation, nor an insinuation in any of the Articles, that the House—and these are the articles of the House, it is claimed—deemed this an impeachable offense; they

have not put it in any Article at all. They have not in any degree referred to it, although the Committee knew of it.

Now, you will remember that the House have the power to pardon offenses committed by an officer. They have the right to say what he shall be held for, and for what he shall not. They evidently thought that the Commissioner was doing what the law did not give him a right to do, but what the parties were willing he should do; and they saw he was acting with good motives, and for the benefit of the settler. They therefore concluded to overlook it. If the matter had been brought directly to to the House, I have no doubt they would have said so. This, at least, is the theory of the case, since there is nothing in the Articles about it. Now, why did he do it in one case and not in the other? Because Cornell consented in one case, and in the other Hoyt did not. It certainly could not be done without the consent of the parties, nor even then if the Commissioner had followed the letter of the law. But the letter of the law sometimes kills. Mr. Cummings came to the office, and wanted the Commissioner to intercede with Cornell, and get this matter fixed; and he promised to do so, cheerfully, not reluctantly. He says he is willing to pay; the Commissioner does not ask pay, and he did not pay him anything. He saw Cornell at Coldwater, and asked him to be as easy as he could with Bouck, because Bouck was a poor man. Is there anything wrong about it, or that shows corruption in the Commissioner? He also stated to him, "If I had known there was a settler on the land, you should not have had it."

That is good talk for a man, but poor talk for an officer. He had no business to talk that way officially. The question for the Commissioner was simply one of law,—what he must do as an officer. As an individual he could sympathize, as an officer he could not; but there is no Article the act comes under. The Commissioner, however, is but human, although an officer, and the sympathies of the man were where yours are, —with Mr. Bouck. He has told his story here; he has excited

the sympathy of every one that has heard it, including the Commissioner and his counsel. And, taking advantage of this, the Managers have attempted to hitch these oxen upon the Commissioner and drag him into the matter, and in some shape or in some way fasten the charge of corruption upon him; but just exactly where, or how, they cannot tell; and, finally, they come down to the cancelation of that certificate. They cannot prove that he had a cent's interest in the land, one way or the other. Upon the contrary, the proof is that he had not. Where is the corruption in office? Where is the crime or misdemeanor, specified in these Articles, about the transaction? Even if it were specified I, refuse to believe, gentlemen, that you would convict this respondent, upon any evidence of that kind. But there is another settler: "Poor Conley," says the Manager. His letter was received at the office the nineteenth of December. The certificate was issued the twentieth of December, to Mr. Hoyt, and the money paid into the Treasury on the twenty-first. You will remember that Mr. Hoyt's application was made on the fourteenth of December, but that the office was then removing, and that everything was in confusion until the nineteenth. That no business transactions were had with the Treasury at all, during that time, and after getting settled this certificate was made out and dated on the twentieth of December. The practice of the office, of course, is to date the certificate on the day the land is made up, without reference to the day it may have been applied for. The application may have been filed long before. They are then taken as they come, as you happen to put your hand upon them, and date the certificate the day that you make them up. Now, one moment right here. Fraud is charged upon the Commissioner. Corruption is charged and these dates are used to establish it. They attempt to fix fraud by them in this way: They say the certificate shows the land was not sold until the 20th instead of the 14th, which was after the receipt

of Conley's letter. But do you suppose that if there had been any fraud or corruption, or anything wrong intended, that the certificate would have gone out dated the twentieth day of December? Why, gentlemen, do not call the Commissioner an idiot. He is not that. He would have dated it back. An ordinary animal would have done that. He would have dated it back to the 14th day of December.

The Manager says he does not propose to spend any time on the act of 1865, or the act of 1861, but still he says, It is a rule that if the act of 1861 applies, and the law was substantially complied with, and the party purchasing had notice of the settler being in possession of the land, that the license would be good, and would hold the land, that possibly may be true, as between the parties to the transaction. Whether Mr. Woolover, Bush, Conley, or the granters of the State, could hold the land mentioned, is not now the question. A very strong argument could be made in favor of the proposition advanced by the Honorable Manager. If Mr. Cornell knew that these parties were on the land when he purchased it, and he knew that they had substantially complied with the law as to improvements, etc., a very strong equity would exist in their favor, and the courts would go a great way, undoubtedly, to construe the law in accordance with equity and right. But the question is not what are their rights as between those parties. The question is as to the duty of the Commissioner,—what should he have done? If his duty be laid down in the law,—if it was his duty to sell the land, there is no margin left whatever for discretion, with regard to the rights of the parties, and, as he then said in his decision, written on the back of Mr. Woolover's proof, "Your remedy is in the courts." That was his view of the law, and that is my view of the law. I have not seen any lawyers yet but that viewed it the same way. Even the Honorable Managers, I do not understand, dare to take the position squarely, that under the act of 1861, in the absence of the three months' proof, the Commissioner would not be authorized to

issue a certificate to the party applying for licensed land. I shall take up that question in a moment. The question is not one at all between the parties; it is a question as to the duty of the Commissioner.

The Manager also mentions the practice of dealing in scrip. Gentlemen, I do not propose to take up time upon that. This practice of dealing in scrip may or may not be all right, but it is a matter that the law says nothing about. It is not a crime to deal in scrip; it is not an offense; and the practice of the office has been to deal in it. Perhaps it ought to be prohibited; that is a question that will address itself to you, Senators, when you come here as legislators. It is not a question, however, for you to consider, as a Court, at all. However, it is not claimed, as I understand, that there is any proof showing that money was received for the land and the money taken by the Commissioner, the land being entered with scrip, and the money kept. I do not know that there is any proof of that kind or claim that there is; but the Manager says that the Commissioner made a corrupt bargain with Mr. Porter to do this thing, and therefore he should be impeached. It seems not to make any difference whether he knew anything about the matter, according to the Manager's view of it. Within one or two weeks, you will remember, after the Commissioner went into the office, he had a talk with Porter. He told Porter he wanted him to carry on the office just the same as he had done with his predecessor,—he was not familiar with its duties,—and what otherwise could he have done? And he says he authorized him to deal in scrip, just the same as his predecessor had done, and, because he made that agreement, he made a corrupt bargain it is claimed, and therefore you must convict him. A most extraordinary proposition. When the Commissioner found out more about it, he concluded he would not have anything to do with it, and that is just all there is of it,—no act done under it. Nothing but the agreement with Porter, made after the representation by him as to its correctness and under a state of circumstances when

he had every reason to believe that he was acting perfectly legal and legitimate. If that be an impeachable offense, impeachments are a very easy matter. The Manager says that on page 67 of the answer, we admit that we did the very thing complained of, and we dismissed Porter on account of it. The Honorable Manager and myself do not agree, in regard to the reading of the answer. The answer to Article V., and that is the scrip article, is upon page 65. The answer referred to on page 67 is upon another matter. And let me state the circumstances under which that Article was drawn, and the record shows the facts as I will state them: The testimony had been taken before the committee, and we had supposed from the noise that had been made about this matter, that Mr. Porter had done the act that they now charge the Commissioner with doing, viz: that he had been in the habit, when money was sent to the office, of taking the money, putting it in his pocket, and entering the land with scrip. We supposed, really, that Mr. Porter would swear to that fact, and we had unlimited confidence in Mr. Porter,—that is, in his ability to do that; and the answer was drawn simply with reference to that and without really knowing what he would swear to, and with an entire absence on our part of any knowledge of the real transaction. And you will see now upon page 67 what is said about it. This is in answer, however, to the Seventh Article, and not to the Fifth.

He says that "for the first few months of his term, he was compelled to and did trust to his Deputy to carry on the office; the orders of the respondent to him being to conduct it as though no change in the chief had been made; this respondent, in the mean time, studying the laws relating to his duties, and gradually familiarizing himself with the work and detail of the office. * * * * * * That during these investigations he kept careful watch of his Deputy and of his management, and at different times suggested changes, but he was always met with opposition and the assurance that such had always been the practice of the office. That his Deputy

did not tell him, nor did this respondent discover, this practice of retaining money sent for land, and entering the land with swamp-land scrip, from actual transactions in the office by his Deputy, but he heard of it outside the office."

He knew nothing about it,—did not profess to speak from personal knowledge. "Upon investigation he ascertained that such had been the practice of the office during all former administrations of it so far back as he could get any information about it."

There is not an admission there that it was the practice while he was in the office. He did not profess to know anything about it.

"But this respondent did not approve of it, and thereupon ordered it to be discontinued, and all moneys received for such lands to be paid into the State Treasury, and the land entered with cash and not with scrip; and, finally, to insure a change in this as well in other practices which he deemed prejudicial to the public interests, he changed his Deputy, and the practice ceased."

So much for that. It is a pretty desperate stretch, it seems to me, to attempt to get evidence out of that admission.

Now, in regard to Mr. Coffron: You will remember that he sent some money, in November, to pay for the land, which was thirty-seven cents short. Seventeen dollars and twenty-five cents was returned to Mr. Coffron, and the land entered with scrip. "What right had he to do that?" shouted the Manager. "Why did not he hold it?" Consistency, at all events, is a commendable thing, if not a necessity with Managers. Just before this, under the First Article, and under other Articles, he has been denouncing the Commissioner for holding lands when they were not paid for in full. He says he has no business to do it. If you might hold land when there was thirty-seven cents short, you might hold it when there was thirty-seven thousand dollars short. There is no difference in the rule. What right had we to hold in that case and not in others? He would have him hold it, and send up to Mr.

Coffron and get the balance of the money. There was no law requiring him to do so. He does not claim so. But the man wanted the land. He did not send money enough to get it Now what could he do? He must either send back all the money or hold the land, without law, until the balance of the money is sent; or he must take so much of it as was necessary to buy the scrip, enter the land, and send back the balance. But it is sufficient for me here, gentlemen, to say that he was under no legal obligations to do otherwise than he did. It is claimed that the practice of dealing in scrip is bad, because of its effect upon the rights of parties who apply to the office for land. "For instance," he says, "suppose Mr. A applies for five thousand acres, and Mr. B applies for the same five thousand acres. Mr. A proposes to enter his land with scrip, purchased of Barnard and Company, and Mr. B. does not. Of course," he says, "Mr. A. would have the preference." But I say, of course he would not. That proposition is drawn wholly and entirely from the imagination of the Manager. There is no evidence of any such a transaction at all. If you or I should go to the office and apply for land, we would get it without reference to where we got our scrip, or where we did not get it. There is not a land-dealer in the State but knows that if he applies for land and don't get it, and the land is not sold, that he can force the Commissioner to sell to him. No such transaction ever occurred, and although it has sprung entirely from the imagination of the Manager, yet it really ought to have no foundation, even there, because it could never occur. And again: In regard to this scrip account, he cites you to the fact that Canfield was told by Mr. Porter that he could buy his land with scrip. Well, now, gentlemen, I think it rather hard that they should attempt to impeach Mr. Edmonds because Mr. Porter really once told the truth,—hard upon Porter, I mean. A man came in the office, and he told him that he could buy scrip. Whether he asked the question or not, or whether Porter volunteered the information, does not appear;

but it will not be presumed, of course, that he told him a thing that he did not inquire about; and Mr. Porter told him the truth; and, therefore, they say the Commissioner should be impeached. That information he might have got upon the start, anywhere. I say it was his duty to tell him (Mr. Canfield) this, if he asked him. I do not know how it can be said that Canfield would have remained in ignorance of this fact, if Porter had not told him of it,—the statement is not credible; and it would look almost like fraud to have allowed him to remain in ignorance of the fact.

In regard to dissolute clerks: Both Managers have spoken upon that question. I have no defense to make of any clerks or anybody else that choose to get drunk. I know what I would do, if I had a man in a responsible position that was in the habit of getting so drunk so as to neglect his business, or if I knew that he drank at all; but that is not the question here nor the charge set forth in these articles. The Article says "for the corrupt purpose of gain,"—for money,—he employed these dissolute clerks. The House of Representatives did not propose to call him to account for this matter, unless he kept these dissolute clerks for the purpose of gain.

So far as the matters proven are concerned, they are limited to two cases which were brought directly to his attention. It may be inferred that he knew that Van Dunham had once been convicted of being drunk; but the testimony shows that no clerk ever appeared in the office except in a condition to do his duty. However you may think, or I may think, or whatever we would or would not do as to a clerk who is in the habit of getting intoxicated, it still becomes more a matter of policy than a question of law. I do not know of any legal rule about it. I do not know of any law that says the Commissioner shall keep only sober men in his office, or that makes their tenure of office depend upon whether they ever get drunk out of office hours.

It is true, if he should keep a dissolute or incompetent clerk in the office for the purpose of gain, it would be corrupt con-

duct "in office," in the meaning of the statute. But there is an entire absence of testimony to show that fact. On the contrary, the evidence is the other way.

I do not propose to answer the general dissertation we have heard upon the propriety of electing men to office, or putting them into position of clerks, who have been guilty of drinking. I will simply say that one swallow does not make a summer, and that one spree or two sprees do not make a dissolute clerk. The Manager calls attention to the Commissioner: "An high officer of the Government—the Commissioner of the whole State of Michigan—getting on a spree with his clerks!" And he says: "Suppose the Lieutenant-Governor of the State should get on a spree at some hotel, what would you say?"

Mr. Manager Huston—I said the Governor, not the Lieutenant Governor.

Mr. Shipman—I beg pardon; I will make the amendment. But it is a delicate question to ask *me* what I would do. I am not quite clear about it. Politics are in somewhat of an unsettled state. Mr. Greeley is but just nominated; and my political slate is not yet made up. But, speaking hastily, and from my present view, I think I should probably vote for his Democratic opponent at the next election. Any other gentleman can do as he chooses,—can answer the question for himself. I suppose the question is addressed to me, and one thing I will say, and that is, I would not impeach him; it would make the "spree" too expensive to the State.

We now come to the Alderman matter. When Alderman was upon the witness stand he impressed every one very forcibly. He prejudiced me in his favor. I thought he intended to tell the truth. And yet, there were some circumstances attending his testimony, that you may look upon with some suspicion. You will recollect that he went to the Land Office and applied to Mr. Robinson for the land on Higgins' Lake,—fractions five and six,—and that he did not get them. He did not apply to the Commissioner. Remember that, because the Manager has said "Why did he not get this land when he

applied for it?" Goddard got it afterwards on his application. The reason is plain enough; Robinson tells you he never exercises any discretion in these matters,—that his orders were to go by one invariable rule, which was this: In cases where the lands might be valuable chiefly for timber, to not allow the party applying to enter them without an affidavit that they were not valuable for that purpose. The judgment of the Commissioner or of the Deputy alone could be exercised upon other proof, or dispense with an affidavit. Alderman applied to Robinson and did not get the lands. He did not apply to Barnard,—and then he went home. And as he says, Goddard wrote to Barnard for them; and he tells you what Goddard put in that letter.

Now, he may have intended to tell the exact truth, but I do not know where he got the idea that Goddard put in the letter the words "For God's sake do something for a poor fellow," because it is not there. He may have intended to testify fairly, but, if so, he made a very serious mistake. I do not consider it very material however, except as bearing upon his other testimony in the case. He says that he (Alderman) could not make the affidavit when he was here; and I will tell you the reason that he could not. It is quite evident he made a mistake as to the location of tho land, and the amount of timber upon it. You will remember he got the land cornering; he got 300,000 feet on it, when we all know it does not contain that amount. And when he attempted to run out the lines of the land, he got the posts wrong, and you will remember he said, if they were otherwise the plat-book was wrong. He had them cornering, in his mind, and undoubtedly those were the pieces he looked at, and when he went to the office he supposed that amount of pine was upon the land, and he could not make the required affidavit. But it seems they had other information in the office. Look at the act of 1863 and you will find the word "affidavit," is not contained in it. Page 15 of the Land Office compilation of laws, reads as follows:

"Whenever it satisfactorily appears that the chief value of any parcel of land consists of pine or other timber."

"Whenever it appears" so to the Commissioner,—not when it appears that it is not so. It is an affirmative fact, that must appear. If it does so appear, then he is required to ask more than a quarter-payment for the land. It has been the practice in the office to require an affidavit of this fact, it is said. It has been sometimes, and sometimes it has not. That is the testimony about it. He has a right to get his information from any source, and it is even in his power, under a close reading of the law, to sell the land on a quarter-payment, where he has no information about it, because the law says that when this affirmative fact "satisfactorily appears," namely: that its chief value is for timber, he shall require full payment, or security for the amount unpaid; implying that when it does not appear, he may sell on quarter-payment. Now, in this case, the land had been taken by pine men, all around the lake. He had a right to infer, from that fact alone, that this was not valuable for timber. Senator Waterbury did not like it; it was not good enough for him. Other parties looked, but did not take it, although they took land all around it; and finally Goddard sent forward and got it on quarter-payment, but not until after the office was informed, by Mayor Ortman, that it was worthless. But what value did the witness put upon it? Alderman says the land is worth $15 an acre. For farming purposes? No, for a town site. It is quite immaterial whether it was valuable for a town site, or farming purposes, the question being, Was it chiefly valuable for timber? If not, it could be sold on quarter-payment for the land. All the other testimony is that the timber, consisting of about twenty acres, is worth perhaps a dollar an acre,—that anyway the value of the land is about twenty or thirty dollars, according to the witnesses who saw it. As far as the testimony goes, it appears that the State has already received all the land is worth. Whether they ever got the $3, or not, ought to be immaterial. If Alderman's state-

ment is true with regard to the land, the State of course is safe enough for the balance, but that is all speculation, I admit. However this may be, the matter is left entirely to the discretion of the Commissioner, as to when he shall or shall not sell, and there is no court in the world which can control him. He cannot even be controlled by a *mandamus;* nor can you impeach him for the exercise of this discretion, unless it is done corruptly.

Five dollars were sent to Barnard to buy cigars. I will venture the statement, that there are many five dollars sent to public officers by different men who simply ask for what they could legitimately get without pay. I have done it myself very frequently,—not to the Land Office of this State, however, but I have sent it to the offices of the General Government, and I presume you all have, more or less; but you had no idea of bribing any one in doing so. They are mere gratuities. The business would probably be attended to, just the same, whether you sent the money or not. Is there any law that says you shall not make a present to a clerk or Deputy in the Land Office? He sent five dollars to Barnard to buy some cigars. I submit, the worst thing there could be in that transaction, would be the smoking of those cigars. The Commissioner did not have any of them to smoke, so far as appears from the evidence, and so you cannot impeach him for smoking. He did not have any of the money,—he did not see the letter; it was not kept in the files of the office. It was produced here afterwards, and we would have proved it at the time, if they had given us time to hunt it up. We got it as soon as we could. It is a letter simply asking for this land, and mentioning the $5 as a present for cigars; at the same time he is asking only for what he might have had without it, and which the evidence shows the Commisioner was justified in letting him have under the law. He says he took Alderman's word for the kind of land this was, as he had a right to. I have said that he had a right to get his informa-

tion from any source he pleased. They have not shown me any law to the contrary.

A word with regard to the rules of the office. The Manager says they are not obeyed. Who is to blame for it if they are not? The laws of this State are not all obeyed, I am informed, and I believe it to be the fact. And yet I do not suppose that anybody expects to impeach our lawmakers because their laws are not fully obeyed. The only thing the Commissioner could do was to make rules, and to exercise reasonable diligence to see that they were enforced. He could not compel obedience to them. He is not to be held responsible if they are violated. It is said here by the Honorable Managers that we are to be held responsible for all acts of subordinates in the office; and we are cited to the 7th of Grattan, 378, in support of that position. That was the case of the loss of a slave, an occasion of gence; and undoubtedly the Commissioner would be liable upon his bond for the acts of his employes in the office, if he gave a bond. But he gives none. The law, as it originally stood, when he gave a bond, provided that the sureties should be liable for the acts of certain clerks in the office; but it never extended beyond a civil remedy.

The case cited from the 6th of B. Monroe, Kentucky Reports, 171, was a proceeding to remove an officer,—first, for embezzlement; second, for extortion, and third, for false entries in books. And the question came up, as to how far an officer was to be held responsible for the acts of his subordinates. But we need not go to that case to find the law on this subject. We can look in our own courts and find a rule clearly laid down, in the case of the People *vs.* McKenney, 10 Michigan, page 97. Here the question was one of embezzlement, against the State Treasurer. There was an omission to charge certain moneys. It has always been held that an omission to charge one thing, or one item, or several items even, will not, of itself, amount to proof of an embezzlement by an officer; but that a number of them, where it seems to have been done upon a

system, or anything of that kind, may amount to proof that it was done intentionally. Now I will read from the case:

"We do not think the objection can be sustained. It was the official duty of the Treasurer to keep such accounts in his office; he might either make the entries himself or by his Deputy or clerk; but in either case they were his official acts; and if made by others for him, it was as much his duty to see that they were properly made, and the accounts correctly kept, as if all the entries had been made by himself. Of course the books would not be conclusive against the defendant; but the question is upon their competency. We think they were clearly competent; and if it appeared by the evidence that any particular sum which ought to have been credited to the State had not been so credited on the books, *it was competent for the defendant to show that it was the error of the Deputy or clerk, or that he had directed the entry and the clerk or Deputy had neglected it, or any other fact which would show that the omission was not intentional on the part of the defendant, or for a corrupt or criminal purpose.*"

There you have the extent of the liability of the chief for the acts of his subordinate, and the rule by which we are willing to be governed. There is nothing here but that shows the utmost good faith on the part of the Commissioner, in adopting proper rules for the government of the clerks in the office, and due diligence in their enforcement. Everybody knows that a clerk has the power to take advantage of his employer every day, and if speculating in lands, he would take pains to hide it from the Commissioner and erase everything on the record that would show that he had any connection with such matter. I deny that the Commissioner can be impeached for a wrong he did not do; and you will remember we are not charged with negligence. "He must have known this," thunders the Manager. That is, as I construe the expression, "It is a necessity for our case that he must have known of it as a matter of fact." It is not true, however, much less proven. We are not charged with negligence,—for acts of omission. We are

charged with positive acts of corruption. We are charged with employing clerks for gain, who did not do their duty, and one of the Honorable Managers says, in despair, "If not for gain, what did the Commissioner keep the clerks there for?" He was utterly unable to stop at any place but that. He reminded me of a story in one of Irving's works, about the first discovery of America, proving that it was not discovered by Columbus. He says, that "the vessels sailed from Norway and Sweden long before Columbus started, and sailed direct for this country; and that they were never heard of afterwards; and if they did not come to America, where did they come to?" It seems to me the Honorable Manager is in that very fix; "If he did not keep them for that purpose, why did he keep them there?" That is poor talk,—with all due respect for the Managers,—to base an impeachment upon. It rests upon them to show that he kept them in there for that purpose.

And now, the gratuity to Robinson,—the fifty dollars from David Preston & Co., which was received for work done out of office hours, and for work which they could not compel the Commissioner, officially, to do, namely, picking out and stating their account. They could not have made the demand officially, for this work, and of course the State is not entitled to any fees for work which it is not the duty of the Commissioner to do. It is not an official act. The money was sent to the Commissioner, and turned over by the Commissioner to Robinson.

Mr. Van Dunham got one hundred and twenty-five dollars; and the Manager asks, "Will it be presumed that the Commissioner had no knowledge of his receiving that one hundred and twenty-five dollars?" I answer, in the Yankee way, Will it be presumed that he had? And that is the legal way to ask it, also. He says that Barnard had ten thousand acres of land reserved since 1870. As there is no evidence of that, I do not know where he gets his information from. I have not been able to find that Mr. Barnard had an acre of

land reserved for his benefit, since January 1, 1871. I care but very little about it, however, as it is something the Commissioner had nothing to do with if he has. It is a matter he did not know of. If it were true that Barnard was doing that kind of business, the question might be asked: What will the Commissioner do now,—will he keep him in office, or will he discharge him? But it could not be a crime until he found it out. Mr. Barnard would not be likely to tell of it; and the Commissioner cannot be presumed to have any information about it, even if true. He says, also, that the clerks became rapidly demoralized when he went into the office. Whether rapidly or otherwise, I do not know as it is very material. I do not know what was going on in Lansing that winter, for I was not here. Whether there was an extra occasion for their becoming demoralized, or not. I shall leave that to the Honorable Senators and Managers. Associations sometimes have influenced people.

I call your attention for a moment to the Obed Smith reservations. He came to the office on the 29th of November, 1871, and found 1,600 acres of land had been reserved to Ripley, and they claim that this reservation was made with the intention of defrauding Mr. Smith; but Mr. Smith does not claim so. He does not substantiate the Managers in that claim, and they should not claim anything more than he does. He says when he went into that office, "I thought they intended to beat me out of the land, but I came to the conclusion afterwards I probably might be mistaken; I probably was." Sixty-three thousand acres of land on five contracts all in confusion by being figured up together. He was in the habit of giving orders for land to everyone and everybody in the woods, tearing out a leaf from his memorandum book to do so, or writing the order on a piece of a letter envelope in every shape and form, keeping no memorandum of them. Is it any wonder that the accounts should get confused in Smith's mind? He got one thousand acres allowed twice in the Road Commissioner's Office. Was that

an intentional fraud practiced upon the State by him? Certainly not. It would have been the strangest thing in the world if there had been no mistakes made in this matter. Whether the Commissioner or Mr. Smith was right, I do not care to inquire. But he sent him to Ripley. Why did he do that? That was a very suspicious circumstance, the Managers think. "He was in league with Ripley," they say. Now, would he have sent him to Ripley, his confederate, if he had been in league with him? Why, it is the commonest occurrence in the world for men to apply to have land reserved on their contracts, and where they have any reason to doubt about it, they will ask to have it reserved until they can find out about it. A contractor has the right to claim that there has been an over-reserve on another contract, and make an application for it, and have it held until the matter is settled.

It is said the invention was to hold these lands until Mr. Smith should become frightened into a settlement, whereby he would lose some of his land. He does not appear to be a very good man to frighten. In the first place, he is a lawyer, and knows his rights, and, knowing, dares maintain them. I think it is not necessary to spend more time upon this point. There is one serious question, however, that I am called upon to answer: Why he told him to go to Ripley? I must answer that question. Ripley had applied for Smith's over-reserves, but he was short of credit. Mr. Hall had applied for the balance, and there was some confusion about it. The Commissioner sent him to Ripley, because Ripley had made this application. He sent him there because of the fact that there was a difference between these two men, which he wanted them to adjust and settle. You will remember that Smith sold some lands, or wanted to sell some; and you will remember that the books showed that he had over-reserved on his contracted. That is the way it appeared; whether right or wrong, is immaterial; and inasmuch as it was not settled who was right or who was wrong, he sends him to Ripley to have the matter arranged. "Ah!" the Honorable Manager says, "it was done for

the purpose of giving Ripley time to investigate the lands." This is an idea of his own invention. I think Mr. Ripley's man was up in the woods, and he wrote here to reserve, to hold the lands until he came down. Let me refer to the application,—it will speak for itself:

"Will you please reserve for me, on my contract, the above list of lands for a few days, until my man returns from the woods. I am not entirely satisfied about them until I get another report. If you will do this I will make it all right for your trouble if they are vacant. If you will do as above requested, telegraph me without fail, to-morrow morning.

"Yours, &c.,

"H. C. RIPLEY."

Here is the answer, dated November 23, 1871: "The lands are Obed Smith's reservation. You have not credit to hold all of them. I am looking over Smith's account." Does that look like fraud?

By a Senator—Who signed that?

Mr. Shipman—William A. Barnard, Deputy Commissioner. Now here is the telegram in answer, as I take it, dated November 23d:

"If lands are in market, furnish scrip for whatever I am short, or reject from the list furtherest north enough so that my credit will cover. Answer at once.

"H. C. RIPLEY."

It may be I do not get them in order. Here is another of Mr. Barnard's:

"*H. C. Ripley, East Saginaw, Mich.*

"Will reserve the amount of your credit, commencing south, and report by letter.

"WM. A. BARNARD,

"*Dep. Com.*"

Now, it is said that we furnished scrip for Ripley's lands. Where is the evidence of it? We did nothing of the kind. Here is another telegram from Ripley:

"I am waiting for telegraph from about lands ordered yesterday.

"H. C. RIPLEY.

"Ans. immediately."

The telegram I read before must have been in answer to that. There is nothing in the world to show that the Commissioner or Barnard ever sold him any scrip, but the evidence shows Barnard refused to do so—the telegrams show that.

Mr. Manager Cochrane [interrupting]—Do not all of those telegrams show they were dated Nov. 23d:

Mr. Shipman—They are all dated Nov. 23d. Two to Mr. Barnard, and the two from him. Now, this application is not dated at all; it is filed in the office Nov. 23d, 1871. Undoubtedly, when he says "The land ordered yesterday," he refers to the fact that he had sent this by letter the day before. I should so construe it.

Senators, I have gone over the ground as rapidly as I well could, and have trespassed upon your patience, somewhat, in doing so, but I desired to investigate and examine some of the positions taken by the Managers in this case, and consider it my duty to do so.

I now desire to call your attention to the Conley, Bouck and Woolover transactions. Conley's license was under the act of 1861; in fact, they were all under that act. The transactions are very similar, and I need not go over the facts in regard to each separately. The Bouck land was a forty obtained by Cornell. The money was sent to the office to buy the scrip and enter it. You will see the statement of it in his application. You will see also that he received his change, being $4 50, as he states twice in his testimony. The amount of money he sent was fifty dollars. The money was used as directed by him; the scrip was bought and the land was entered. It was a very hard case upon Mr. Bouck, and it is dealing in a class and kind of land that few will want. No one should wish such lands; and this is true, whether you look at Bouck's, Conley's, or Woolover's case. But that is not the

question here; the question here is, What is the duty of the Commissioner in such cases? and that is the only question that you have to deal with. These acts of 1859, 1861, and 1865 are all in the Compiled Laws. The Honorable Manager who opened this case says, that the act of 1861 was modified by the act of 1865, to protect the careless, negligent, but honest settler. He did not argue the proposition any further than that, and I apprehend that he did not consider it safe to do so; but if the Legislature passed that law to protect a careless and negligent class of men it is the first instance I ever knew of. They do not usually legislate for that class. They usually require people not to be careless, and not to be negligent; and to take care of themselves. I think there was a system in the passage of these laws. I think that the system is correctly stated in our answer. It is this: first, if a man applied for land under the act of 1859, he was required to file an affidavit of what he intended to do; that is, that he intended to drain the land, etc., as required by the act of Congress. Upon doing this, he was entitled to a license for the lands. That was deemed a sufficient guaranty that the land would be settled upon. Then I think that experience taught the State that that was not sufficient; that people would apply for lands that they did not go upon, and did not drain, nor in any way comply with the law in regard to them; that speculators would hire men to go upon lands and license them; that lumbermen would do so, and others interested in lands would get their lands, nominally to settle upon the lands, and really hold them for the purpose of speculation,—and that thereupon the act of 1861 was passed, specially, specifically, and directly providing that the settler should, within three months after the date of his license, file a certain kind of proof with the Commissioner of the Land Office, to which I will call your attention in a moment. If he did not file this proof within the three months, the license was declared to be void, and the Commissioner was required to sell the land the same as other swamp land. The law does not say he may do it,—You shall have authority to do it, but

it says, You *shall;* the words are mandatory,—peremptory. Now, it is said that the practice of the office was to not allow these lands to be sold, unless an affidavit had been filed showing that they had been abandoned, or something of that kind, and it is urged very strongly by the Managers that if that was the practice, the present Commissioner ought to have followed it. We differ right there. We differ at the outset. Where there is no law, the Commissioner has a right to abide by an established practice of the office; but where there is a law about it, the practice must be changed to comply with the law. I care not whether the practice is good or bad; it is simply a question of law. If the statute is peremptory, mandatory, he has no right to set it aside, although he may himself dislike the law. It is a virtue in the citizen, not a crime, to obey the law. The Commissioner did not make this law; he made none of these laws. The Legislature made them, and if they are not made right, let them change them,—not impeach the officer who obeys them.

I desire to call your attention to the license: Mr. Bouck's is dated the 14th day of March, 1865. The law of 1865 was passed the 18th day of March, 1865, and ordered to take immediate effect. His license was dated, therefore, four days before that became a law; it therefore would come within the ruling of the Court, in the case that has been read in manuscript. The Woolover license was dated nearly a year after that. I call your attention to both of them, to show that you have a case arising both before and after the act of 1865. There is no difference in the rule, however, as I shall claim, whether the license be dated before or after that law. Upon page 511 of the Impeachment Proceedings, you will find the application of Mr. Bouck, to go upon the lands in question, and you will also find the license issued under "An act to amend an act entitled 'An act to provide for the settlement and drainage of swamp lands by actual settlers,' approved March 7th, 1861," referring directly to the act, and the acts amendatory thereto. The act had not been amended at that date; and

that is put in, as I suppose, as a matter of form; still, it would have been taken, subject to all amendments to the law, without those words being in the license. He asked for the privilege of going upon and draining the land. It was said by one of the Managers that the license gave him a vested right in the land when it was issued. I beg pardon; but it does nothing of the kind. It simply gives him a right or license to go upon the land, and do certain things, and to have a title in the future, if he does them; but, if he fails to do them, the land reverts. Now, the conditions are:

"*First.* That said applicant shall enter into immediate possession and occupancy of said tract of land, and shall continue to reside upon, occupy, and improve the same for five continuous years.

"*Second.* That said applicant shall, within three months from the date of this instrument, file with the Commissioner of the State Land Office, a certificate from the supervisor of the township in which the land is located, together with his own affidavit, that he is in the actual possession and occupancy of such land."

That is what he must do, and it is written right in his license, and then it is declared—

"*And it is further provided,* That if said applicant or settler shall not file his certificate and oath of settlement and occupancy, as above provided, or if the evidence of two witnesses, under oath, is furnished to the Commissioner of the State Land Office, that the clause above mentioned, to prevent waste, has been violated, then his claim shall be deemed as void, and the Commissioner of the State Land Office shall, from and after said time, sell said land the same as other swamp lands."

This is in Woolover's license and in the licenses of all these parties:

"And the said applicant also stipulates and agrees with the State, that he will faithfully occupy the said tract of land, and will drain the same conformably to the above mentioned act, and to the provisions of the act of Congress therein referred to,

for the purpose of obtaining title to said tract, as provided by law.

"And in case the said applicant shall actually occupy and reside upon said tract for the period of five continuous years, and shall in all things comply with the above recited act of 1861, and keep and perform all and singular the provisions, terms, and conditions contained in this present license, he will at the end of that time be entitled to a certificate of purchase of said tract of land, and a patent therefor from the State."

Referring directly to it, and telling him plainly and distinctly what he was to do.

It is asked, Why could not the Commissioner have got a notice to these parties as to what the law was in regard to this matter, notifying them by publishing the notice in the newspapers, so that it would come home to them, that he proposed to enforce the law? Who would have paid for it if he had? There is no provision in the law authorizing him to do so,—much more requiring him to. I suppose that all parties are bound to take notice of what the law is, and when an application is brought to the attention of the Commissioner, he must act upon the law as it is written.

The Presiding Officer—It is now twelve o'clock. The Senate, sitting as a Court of Impeachment, will take a recess until two o'clock this afternoon.

Thursday, P. M., May 23, 1872.

The Senate met and was called to order by the President *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

Roll called: quorum present.

The Presiding Officer—The counsel for the respondent will proceed with their argument.

Mr. Shipman resumed his argument, as follows:

SENATORS: I call your attention to the report of the State Swamp Land Road Commissioner, for 1871. With regard to settlers, homesteads, etc., he says:

"By reference to the reports of the Commissioners of the State Land Office, from the time the Homestead Acts first took effect until December 1st, 1870, it will be found that 290,934.33 acres have been licensed for homesteads; and yet the tabular statement in said Commissioner's report, just issued, shows that only 61,663.70 acres had been patented as homesteads up to December 1st, 1870, and but 97,925.65 acres remained licensed at that date, or a total of only 159,589.35 acres, which, deducted from the amount that have been licensed, leaves no less than 131,344.98 acres that have already reverted to the State on 'proof of non-settlement or abandonment;' and there can be no doubt that still quite a large amount of that now standing on licenses will revert in the same manner, proving conclusively that more than half of all the lands licensed for homesteads will not be settled as such. It is also true that a large amount that has been sold for one-fourth pay down, has been forfeited to the State for 'non-payment of interest.' I am therefore obliged to repeat what I said in my former report: 'From extensive observation, and information gathered from reliable sources, I am satisfied that a very large majority of the lands taken under these laws are *not* for actual settlement, but to be stripped of valuable timber, a practice very general in many parts of the State, and carried on by irresponsible parties.'"

With these facts in view, I call your attention to the law of 1861 and the act of 1865. I need not read to you the law of 1859; I can state it to you. The party applying for the license was required to file with the Commissioner his application under oath for the privilege of entering on certain land, specifying the same for the purpose mentioned above, and obtain from the Commissioner a license to enter upon and occupy and drain the land for the purpose of obtaining a title thereto. Section four provided that he should not, under his license, be author-

ized to cut or carry away any pine or valuable timber; and for the violation of the aforesaid provisions they might be prosecuted, etc. Now, the act of 1861, found on page 81 of the Land Office compilation of laws, amends section one and section four of that act. Section one is so amended that he may license eighty acres instead of forty. Section four is amended so as to require further proofs, as follows:

"SEC. 4. And it is further provided that the license for settlement granted under this act, shall contain a clause which shall expressly provide that the settler or occupant shall, within three months after the date of said license, file with the Commissioner of the Land Office a certificate from the supervisor of the township in which the land is located, together with the affidavit of such settler, that he is in the actual possession and occupancy of such land. * * And it is further provided, that if such settler shall not file his certificate and oath of settlement and occupancy, as above provided, or if evidence of two witnesses, under oath, is furnished to the Commissioner of the State Land Office, that the clause above mentioned, to prevent waste of said land, has been violated, then his claim shall be deemed as void, and the Commissioner of the State Land Office shall, from and after said time, sell said lands the same as other swamp lands; and this provision shall be inserted in the license for said lands."

There is a plain law. It is not like the United States Homestead law. It is somewhat like the United States Homestead law passed in 1841, but does not contain the amendments passed since, materially changing the rule when a man has pre-empted land, by providing that he should have notice, etc., before he could forfeit his claim.

But that is the law that the Legislature made, and that is the one that the Commissioner had before him when he decided these cases. Then comes the act of 1865, found upon page 160. It in no way refers to the act of 1861, at all. It does not purport to change the law of 1861. There is no repealing clause in it, and you have provided—the People of

this State have provided—that when a law is repealed or amended that it shall be re-enacted and set out at length. What guide had the Commissioner to go by, but this? I do not believe that it was ever intended by any one to, in any way, change the law of 1861, by the law of 1865,—I cannot so read it. Repeals may take place by implication, but they are not favored in courts; but they cannot take place by implication, when both laws can stand, when there is not a necessary conflict between them. There is no such conflict between the acts of 1861 and 1865. They are upon different subjects. The act of 1861, undoubtedly, until the passage of the act of 1865, allowed the land taken by the settler, in the absence of this proof, to be sold to any one,—not only allowed it, but it compelled the Commissioner to sell it the same as other swamp lands. Tell me where he had any discretion in the matter? I call upon the Managers and ask where under the law he had a right to exercise discretion and hold land for this class of land-dealers? There were many lands held, I doubt not, in this State, from the information I have received, for merely the purpose of speculation, under the act of 1861; certainly under the act of 1859. Then came in the act of 1865, and that act provides that after two years from the date of the license, upon proof of abandonment, these licenses should be forfeited after two years from the date of the license. What was to happen between the date of the license and that time? What was the law a year after the date of the license? The law of 1861 says, that if the settler did not file three months' proof the land should be subject to sale. Any one could have it by applying for it, in the absence of this proof. The act of 1865 does not allow an affidavit of abandonment to be filed until after two years from the date of the license. A hundred affidavits could not get it before that time,—affidavits could not change the law. Supposing that the three months' proof had been filed, as required by law. A year after the date of the license a man comes into the Land Office and files a ton of affidavits,—I care

not how many,—could he get the land? He could not. But if he waits for two years, he might then, upon filing the proof of abandonment, provided for by this section, get the land. At the end of five years, also, upon filing the proof of non-settlement, required by the act of 1865, he might get the land. But he could get it, notwithstanding that the three months' proof had been filed. There is no conflict between these laws,—neither one interferes with the other. First the three months' proof; second, notwithstanding the three months' proof, after two years of abandonment, and then the affidavit of non-settlement at the end of five years. I am quite unable to see how there is any conflict in the acts or the policy adopted by them.

Again, you will remember that the practice of Mr. General Pritchard, the prior Commissioner, and which it is alleged we have violated, was, for an affidavit to be made by one person of abandonment. His name might be Bush, for instance; an affidavit by such a person was sufficient to get the land; and yet this act of 1865, if it is of any force at all, requires the affidavit of two responsible persons, to be certified to by the supervisor and two responsible citizens of the township in which said lands are situated. How the Commissioner is to ascertain as to their responsibility, is not settled by the law. But the present Commissioner has provided a method of having their reliability certified to by the supervisor. Article III. charges us, not with violating the act of 1865, but of violating the practice of the office. It is a new idea invented by the Honorable Managers, it seems to me, since these Articles were filed, that the act of 1865 in any way interfered with the act of 1861; because if they had claimed we had violated the act of 1861, they would have so stated in the Article. But as it is, it reads:

"And he, the said Edmonds, being acquainted with the practice in said office ever since the passage of said act No. 108, laws of 1861, to withhold from sale such licensed lands, except in cases where proofs by the affidavit of two credible witnesses was filed."

There was no such practice in the office, however, at any time, even during General Pritchard's time. Besides, this Article implies that the act of 1861 is obligatory and in full force, and in no way repealed or changed by the act of 1865, and I ask Senators to read that through carefully and see whether or not it does interfere with the act of 1861. The Commissoner has acted in the utmost good faith in this matter. He has construed a law which he believed to be peremptory in the way he did, believing no other construction possible, and I submit that there is no other possible construction to be placed upon it.

Some of these Articles are multifarious; that is, they contain several distinct offenses and charges. Take, for instance, Article VI. It charges four specific things. Suppose that six members of the Senate should find that the respondent was guilty of one of the matters charged in that article, and should find him not guilty of the other three. Then suppose six other Senators should find him guilty of the second offense charged, and not guilty of all the others; and then suppose, again, six members should still find him guilty of the third and not guilty of the others; and upon the fourth, six other members still should find him guilty of that charge, but not guilty of any of the other matters charged in the Article. The result on the whole would be that there would be twenty-four Senators voting on the article entire, that would find him guilty upon the whole article, and yet, as a matter of fact, there would be only six who would find him guilty upon any one of charges contained in it. The requisite number to convict upon any one of the charges, standing alone, could not be obtained. These remarks will apply to other Articles also. They will apply to Article III. as well. There is great difficulty in presenting a case properly, when it is lumbered up and mixed up in this confused and unlawyer-like way. The Articles should have presented each offense distinctly and separately, and only one offense should have been put in an Article. But I apprehend, Senators, that the main point,—and the only one that I care anything about,—under Article

III, is the rule under the act of 1861, and that I have stated as the law reads to us. I will also refer you, gentlemen, to the answer upon pages 63 and 64 of the Impeachment Proceedings, in which we have stated our construction of the acts. We cannot put any other construction upon them than we have here given. It is admitted, I understand, that if the act of 1865 had not been passed, that our construction would be right; and yet no Manager has told us how, or when, or where that act touches the act of 1861 or purports to do it. Again, you must get a rule for the first two years, after the date of the license, and before the proof of abandonment under the act of 1865 can be filed. In that interim no affidavit is required in order to get the land; it can be sold without it, if it appears the three months' proof has not been filed,—that is very clear. The act is peremptory, and makes it so. All of these applications, however, are under the act of 1861, whether made before or after the law of 1865 was passed. Bouck's license is also, and they all covenant that they will obey the conditions and provisions of the act of 1861. That is the contract between them and the State. We have nothing to do; we cannot hear or consider the question of whether this is a hardship upon settlers, or whether it is not. That is not a question which should address itself to the Senate. It is a question to address itself to you if you were sitting as a legislative body. I call your attention to the fact, that men may lose land in other cases than in the case of licensed lands: in the case of primary school lands, where, from sickness or other misfortune, the parties may fail to pay their interest, yet the land will go back to the State, and no one can prevent it. All these laws are written plainly, and is the duty of officers to obey them. The Commissioner is bound to obey the law. He is not to inquire whether he likes it or whether he does not like it. Said a great English Judge, "Whatever doubts I might have in my own breast with respect to the policy or expediency of this law, as long as it continues in

force I am bound to see it executed according to its meaning." Obedience to the law is the highest virtue in an officer. The respondent simply intended to obey that law. If the law is wrong, it is the Legislature that is to blame; it is not the Commisioner. If it is a hardship and cruel to the settler, who is to blame? Not the Commmissioner. It is a hardship in some respects; but yet, primarily, it is owing to the settler's own negligence. The State must make some provision to guard against this system of licensing land and holding it for speculative purposes by nominal settlers. They must make some provision to guard the right of the State in the matter, and the settler owes the loss of his land in such cases really to his own negligence. It is his own fault if he loses it. It is a misfortune that he, perhaps, did not know more; but it is one that the State cannot guard against. I see no way in the world unless the State send agents around to tell the settler his duty; yet it is plainly printed in each license. In this State, to-day, I have no doubt but there are thousands of acres of land that under the law might be forced from settlers if one had the descriptions and chose to go into the office and apply for them. But what can be done? Must the Commissioner refuse to sell these lands if applied for, as provided by law, and thus use up his eight hundred dollars a year in paying costs on *mandamuses?* I can go in the office to-morow morning, or you can go in there to-morrow morning, with a description of land, and you may know that the settler is upon it; you may have lived neighbor to him for five years,—I care not how long; you may apply for information in the office, and if you find the three-months' proof is not filed, if you put down your money and make your application for the land, there is no power in the world to keep that land from you under the law as it now stands. I regret that the law is so,—the Commissioner regrets that the law is so, but he does not see that he can alter or suspend it,—that he has any discretion or right to refuse to obey it because it may be wrong, or not

agree with his wishes or views of what the law should be. The policy of the law may be wrong, but I submit, Senators, that you cannot hold him responsible for that or for anything but disobedience to the law. If you listen to the Managers, however, you are to impeach him for obeying the law, not for violating it. I submit that he had a right, and not only had he a right, but it was his duty, to depart from Gen. Pritchard's practice if it was a violation of the law. A Roman emperor once attained eternal infamy by writing his laws on the top of a monument, where the people could not read them, and then punishing their violation as a crime. But you are asked to do worse than that. Here is a law by which you have not only stamped the act done by the Commissioner as innocent, but you have said he should do it. Now you are asked to stamp obedience to that law as a crime. No, Senators; I cannot believe you will do it. But, if it must be,—if the Commissioner must be sacrificed,—write on his political monument, "Impeached by the Senate of the State of Michigan for obeying the law."

A question has been raised in regard to gratuities, and a remark dropped in regard to them, that it was a system of forced contributions in the office. There is no evidence to sustain any assertion of that kind, in any way, shape, or manner, or by or from which you can infer it. No one has had a favor in the office which he might not have obtained without paying for it. Our attention has been called to the proceedings of the New York Legislature, in a case against the Commissioner of Insurance,—Miller, I think, is the name. The third provision of the report of the committee contains this:

"That he has allowed clerks in the department, who are paid regular salaries by the State, to charge and receive illegal and excessive fees for making special and other examinations."

That is, that he has allowed them to charge extortionate fees. It would be an offense, a crime, if he had allowed them to do it,—if he was a party to it. Also:

"That he has appointed Commissioners to make examina-

tions, who have received large and excessive fees, entailing great expense upon the companies."

I will not read all of it. He is charged, in the report of the committee, with having committed several violations of law. And they conclude in this way:

"Whether the Superintendent has been guilty of intentional violation of law, and whether or not he should be removed from office, are questions which we leave to the consideration and wisdom of the House."

They would not even make a recommendation upon those grave charges that were made there, because he might have acted in good faith, in construing the law. They were more considerate than the committee who acted in this case, and, perhaps, their precedent could be studied to advantage by our Legislative committees. To impeach the Commissioner, he must be guilty of corrupt conduct in office, or of crimes and misdemeanors. Nothing less than that. You cannot impeach him upon general principles, nor for any outside matters. I cannot, in any degree, acquiesce with the claim of the Honorable Manager yesterday, that you might impeach for some undefined cause, outside of the Articles, if, in your judgment, it is for the interest of the State to do so. I do not believe in any such rule; and I could not help but think, when the Manager was expounding the law, that he did it as though he would like to be its executioner. The State has no higher interest than to extend to each citizen the protection of its laws. Before you can convict, you must put your finger on the law the Commissioner has violated; for it is for that, and only for that, you can impeach him. You are not to listen to the demand to impeach anyway. But the cry is not a new one. When Pilate asked, "What evil hath this man done?" the cry was, "Crucify him! crucify him!" What cared they for law? They used it only that they might under its form kill Him they hated. When we ask, What law has the Commissioner violated? the shout is, "Impeach him! impeach him!" It is not the language of the law; it is the wild cry of the mob.

It is a cry that the walls of this chamber should never echo. It sounded to me more like the war-whoop of the Tuscolas, than the language to be addressed to a judicial tribunal: Impeach anyway, law or no law! I cannot consent to that, and I do not believe you will. I submit, Honorable Senators, that it would be a disgrace to the State of Michigan to listen to such a demand. No; the Commissioner is to be tried on specific charges and known laws; he is entitled to the same privileges that a respondent has in other trials.

Let me call your attention to the American Law Register, pages 260 and 261. It speaks of the trials of impeachments, after proceedings are commenced and the articles are filed. It says:

"The law still presumes his innocence, and can do no more than to take such steps as may be necessary to render his attendance at the trial certain."

In other words, the same rule obtains, as in all other cases, that the prosecution must prove their case. If there is any doubt as to his guilt, the respondent, I submit, is, within reasonable limits, entitled to it;—at all events, it is not to be given to the State. So far as the proof is concerned, I think it is quite clear, however, he is shown to be not guilty; and this appears not only from the absence of proof, but from the direct proof itself. It appears he had no knowledge of anything that was wrong in the office whereby you can fasten, in any degree, corruption upon him. Not a dollar has gone into the Commissioner's pocket. Not an acre of land has he had. Where is the corruption? Can you put your finger upon it? Can you state it?

I have said that a demand has been made for conviction anyway. Are you by any means certain that you are going to get a better Commissioner for his successor? Of the nine Commissioners that have been in the Land Office,—without saying anything against the others,—have you had a better one? Has past experience told you that you are going to get a better one in the future? I do not know who his successor is,—

I do not know that anybody has an interest in creating a vacancy in that office at this time, but judging the future by the past, it is at least a step of doubtful wisdom. Is he to be impeached because he has done his duty, and somebody don't like it? No violations of law are proven. In impeachment cases the Managers are usually urged on by extraordinary influences to produce a conviction of the accused,—they have a greater interest in effecting that result than is felt by prosecutors in ordinary cases. This case furnishes no exception to the rule; on the contrary, it substantiates it, so far as some of them are concerned.

Permit me to read again, from pages 282 and 283, of the 6 Am. Law Register, as to what some of these influences may be, as well as showing the results which sometimes follow inconsiderate convictions:

"It is clear, however, that the process of impeachment often greatly disappoints those who resort to it. At the outset the 'pomp and circumstance' of the trial flatter the vanity of the Managers, by attracting to them the attention of the public. But the tediousness of the proceeding soon dissipates the interest which depends upon the novelty of the occasion. Unexpected difficulties are met with; new events amuse or excite the public. The Court is bound by precedents, and must proceed in accordance with law. At the end, the few are convicted and the many acquitted.

"It has been noticed that many of those who have employed this means to ruin their enemies have themselves, in the mutations of politics, been the victims of similar proceedings. This point was so forcibly stated by Lord Carnarvon, in the only speach which he ever made in Parliament (A. D. 1678), that I cannot forbear a quotation. The Earl of Danby (Sir Thomas Osborne) was then before the Court: 'My Lords: I understand but little of Latin, but a good deal of English, and not a little of English history, from which I have learned the mischiefs of such kind of prosecutions as these, and the

ill-fate of the prosecutioners. I could bring many instances, and those ancient; but, my Lords, I shall go no further than the latter end of Queen Elizabeth's reign, at which time the Earl of Essex was run down by Sir Walter Raleigh. My Lord Bacon, he ran down Sir Walter Raleigh, and your lordships know what became of My Lord Bacon. The Duke of Buckingham, he ran down My Lord Bacon, and you know what happened to the Duke of Buckingham. Sir Thomas Wentworth, afterwards Earl of Stafford, ran down the Duke of Buckingham, and you all know what became of him. Sir Harry Vane, he ran down the Earl of Stafford, and your Lordships know what became of Sir Harry Vane. Chancellor Hyde (Lord Clarendon) ran down Sir Harry Vane, and your Lordships know what became of the Chancellor. Sir Thomas Osborne, now Earl of Danby, ran down Chancellor Hyde, but what will become of the Earl of Danby your Lordships best can tell. But let me see that man that dare run the Earl of Danby down, and we shall soon see what will become of him.'"

It is not desirable that impeachments should become a common thing in this or any State. It is not desirable that they should become precedents for everyday use. The State will be more benefited in the end by the failure of an attempt of this kind than in its success, more particularly when it is instituted, as I believe this is, for the purpose of effecting a private and personal revenge upon the Commissioner. As stated yesterday, if Mr. Porter had had no wrongs to redress, this impeachment would not have been instituted. There are, undoubtedly, other men who are interested also, but he especially has urged this on, and used the machinery of the State to fight out his individual quarrel with Mr. Edmonds. If this is to become a precedent, then when one gets a political or other grudge against an officer, he has but to come to the Legislature and work it up, and get up another impeachment, and have the State fight it out for him. I call your attention a moment, in closing, to the circumstances under which the Commissioner came into this office. He came with no experience at all. He had been

a carpenter, living in the little village of Quincey; from there he went into the army, which is not a place to learn the arts of the drawing-room at least; and from there he went into the county register's office, and then he came into this office. He is but a man! There are many better and many worse men than he; but he is a man who intends to do his duty. He may not always do it. He will fail sometimes, like the rest of us, but he came here with the honest intention of improving that office. There are other improvements that are needed in the office, and if he is permitted to remain he will make them. The necessity for some, has been developed upon this trial. He took a pride in doing so, and he would like to carry out the work he has begun. He had no other interest but that in the changes he has effected. Coming from his home to Lansing, freed from its restraints, associated with a class of people that were strangers to him, unused to the ways of public men, and perhaps the flattery that might be bestowed upon an officer, he may have done something at times that he ought not to have done. He may have erred, but he has committed no crimes,—none at all. Looking at all the Articles together, you can find no crimes, no corruption in office; you cannot trace a dollar into his pocket, except what he has made out of scrip, and that he fairly and squarely owns here. If it is wrong, the law does not say it is wrong. You may say it is wrong, but you ought to have said it before, that he might have had an opportunity to stop the practice. You ought not to punish him for it now, nor can you find him guilty of but one kind of corruption, and that is the form stated in the Articles, namely, of bribery,—of doing the acts charged for personal gain. For nothing else can you hold him liable. These are the charges presented by the House, and the ones you must vote upon. Anything else you cannot pass upon. They do not ask you to impeach him for negligence,—for anything but this kind of corruption.

Again: I submit that the sins of an officer cannot be visited upon his successor. General Pritchard is not on trial here

We will not be severe upon him, but still there were mistakes in his office; there were things that ought to have been righted. These were somewhat entailed upon the office, and are not all corrected yet; but I submit that they ought not to be visited upon this respondent. It is said this is a half civil and half criminal proceeding. Look at the effects of the punishment. They tell us it only ousts him from office. I tell you it makes him an outcast; it sends him from here, disgraced. It is a brand placed upon him that will remain through life. You can never wash off the stain; its effect is lasting; and it not only reaches him but reaches his family, his wife and children. Those must suffer with him if he has to suffer. Better far that he had never left that field of South Mountain, than to go from this Senate with your verdict against him! Better that he had lain along the battery wall, below the smoking cannon! Better an honorable death, than a life dishonored! If he goes from here convicted, he is disgraced forever. He is branded as a dishonest man and as an incompetent official; and, to the last day of his life, it will be a stain that he cannot efface.

Mr. Shipman closed his argument at three o'clock and Mr. Manager Grosvenor, on the part of the House of Representatives, addressed the Senate until nearly four o'clock, when he announced that he was unable to proceed further on account of serious indisposition, and asked the Senate to adjourn, whereupon, on motion of Mr. Sheley, the Senate took a recess until seven o'clock P. M.

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EVENING SESSION.

The President *pro tem.* called the Senate to order at ten minutes past seven o'clock.

The Sergeant-at-Arms made the usual proclamation.

The Secretary called the roll, and a quorum of the Senate answered to their names.

The Presiding Officer—The Honorable Managers will proceed with the argument.

Mr. Manager Huston—Mr. President and Senators, Colonel Grosvenor, one of the Managers, is so ill that he is unable to proceed with his argument, and we are well aware of the anxiety that this Court has that this case should be closed as soon as possible. We regret very much that Mr. Grosvenor is not able to reply to the argument of the learned counsel for the respondent; and still, we do not know as it would make any material difference with what the decision of this Court might be. The case has been fully presented on each side, and the different positions in regard to the law have been fully presented, and the evidence has been pretty fully argued, and my brother Cochrane and myself have concluded that perhaps it would be just as well if we submitted the case here, as it would be if I went on and referred to the argument of the respondent's counsel who last addressed you, because it must necessarily, as you will see, be traveling over pretty much the sames ground already traversed in the arguments that have been made; and I am satisfied there is no Senator here who desires me to re-hash the argument I made to you yesterday. You heard me at least, if you did not understand me.

The counsel for the respondent who last addressed you, misquoted some of the testimony, I think, during his argument; I do not think it was intentional at all, and in some of the remarks which he made this afternoon, he seemed to think, that when I referred to a remark of the other counsel of that character, that I had said what I ought not to. I certainly had no intention of doing anything of the kind, and I have no intention now of reflecting upon counsel; but I wish, if you have occasion, when you come to consult upon this case, that you would refer to pages 142 and 143 of Mr. Allison's testimony, and see whether there was not an application for one hundred and twenty acres of that land, made last October, as I claimed in my argument, and as Mr. Allison's testimony shows. The counsel for the respondent, in his argument,

claimed that there was no application made for any of the land, until the 30th of April or the 1st of May.

Mr. President and Senators: We submit this case, regretting of course, that Col. Grosvenor is unable to make his argument, but in perfect confidence in the judgment of this Court. and having no doubt but that you will come to a correct conclusion in the matter.

The Senate here took an informal recess.

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AFTER RECESS.

Senator Moffatt—I offer the following resolution:

The Secretary read the resolution, as follows:

Resolved, That Barnhardt Rice be allowed two dollars per diem as night-watch, in addition to his per diem as fireman during the session of the Senate, sitting as a Court of Impeachment.

The resolution was adopted.

The Presiding Officer—Mr. Manager Cochrane sends up the following order, which the Secretary will read.

The Secretary read the order, as follows:

Ordered, That Manager Grosvenor have leave, if he see fit. to file a written argument, in this cause, and that the same be printed with the proceedings herein.

Senator Jenks—I move its adoption as one of the orders of the Senate, sitting as a Court.

The order was adopted.

Senator Romeyn—Mr. President, I send an order to the Chair.

The Secretary read the order, as follows:

Ordered, That leave be granted to such members of the Senate as may choose to avail themselves of it, to file their written opinions upon matters either of law or fact, connected with the pending trial, such opinions to be printed with the Impeachment Proceedings.

The order was adopted.

Senator Briggs—Mr. President, I have an order which I wish to submit for the consideration of the Senate, and I hope it will be adopted.

The Secretary read the order, as follows:

Ordered, That when the Journal and Proceedings of the Senate, sitting as a Court of Impeachment, are printed, bound, and ready for delivery, that the Secretary of the Senate forward, by express, to each member and officer, the number they are each entitled to.

The order was adopted.

Mr. Romeyn—Mr. President, I have an order which I desire to submit, and which I will read. The order is as follows:

IN THE SENATE OF THE STATE OF MICHIGAN:

In the matter of the Impeachment and Trial of Charles A. Edmonds, Commissioner of the State Land Office:

The evidence on the part of the People, and on that of the respondent, having been taken and duly considered, by and before the Senate, sitting as a Court of Impeachment, and argument by the Managers representing the House of Representatives and the People of the State, and by counsel for the respondent, having been heard, and such evidence and argument having now concluded; it is

Ordered, That the question upon the Articles of Impeachment shall be taken as follows:

The Presiding Officer shall direct the Secretary to read the several Articles, and, after the reading of each Article in its numerical order, shall put the question of guilty, or not guilty, to each Senator, rising in his place, as follows:

Mr. Senator ———, how say you? Is the respondent, Charles A. Edmonds, Commissioner of the State Land Office of the State of Michigan, guilty, or not guilty, as charged in this Article?

And each Senator shall rise in his place, and answer, Guilty, or Not guilty, only.

Senator Briggs—Mr. President, I would like to inquire whether that precludes any expression of opinion among Senators upon any question?

Senator Romeyn—That is the intent of it.

Senator Briggs—Very well, Mr. President.

The order was adopted.

Senator Wood—Mr. President, I offer the following resolution:

The Secretary read the resolution, as follows:

Resolved, That the Secretary of the Senate be directed to compile the trial of Hon. Charles A. Edmonds, Commissioner of the State Land Office, upon the impeachment before the Senate of Michigan; to add an appendix to the same with the exhibits filed in the case; to procure an index to the testimony and arguments, and to furnish copy of the same, with all convenient dispatch, to the State Printer, and that for performing this duty he be paid the sum of ——— dollars.

The Presiding Officer—The first question is upon the filling of the blank.

Senator Wood—I move that it filled with one hundred and fifty dollars;

Which motion prevailed, and the resolution was adopted, by yeas and nays, as follows:

YEAS.

Mr. Alexander,	Mr. Mann,	Mr. Stockbridge,
Ball,	Moffatt,	Stoddard,
Barber,	Price,	Waterbury,
Begole,	Prutzman,	Wheeler,
Briggs,	Putnam,	Wilcox,
Dexter,	Randall,	Wood,
Gay,	Romeyn,	President
Hannahs,	Sheley,	*pro tem.*,
Jenks,		24

NAYS. 0

Senator Randall—I offer the following resolution:

The Secretary read the resolution, as follows:

Resolved, That the thanks of the Senate, sitting as a Court of Impeachment, be tendered to Hon. P. H. Emerson, Presi-

dent *pro tem.*, for the ability, fairness, and uniform courtesy with which he has discharged his important and responsible duties.

The motion to adopt was put by the Secretary, and the resolution adopted unanimously.

The Presiding Officer—I think the best speech that I can make is, to remain silent, and tender you my thanks for the compliment.

Senator Romeyn—Mr. President, I offer the following order:

The Secretary read the order, as follows:

Ordered, That the Secretary of the Senate be directed to forward to the members and officers, the remaining Journals and Impeachment Proceedings of the Senate, sitting as a Court of Impeachment;

Which motion prevailed, by yeas and nays, as follows:

YEAS.

Mr. Alexander,	Mr. Mann,	Mr. Stockbridge,
Ball,	Moffatt,	Stoddard,
Barber,	Neasmith,	Waterbury,
Begole,	Price,	Wheeler,
Briggs,	Prutzman,	Wilcox,
Dexter,	Putnam,	Wood,
Gay,	Randall,	President
Hannahs,	Romeyn,	*pro tem.*,
Jenks,	Sheley,	25

NAYS. 0

Senator Wheeler—I move that the Senate Chamber be cleared for the purpose of deliberation upon the Articles of Impeachment.

The motion prevailed, and the Senate went into secret session upon the Articles of Impeachment.

After the doors of the Senate were opened,

Mr. Wheeler offered the following resolution, which was adopted:

Resolved, That an order on the State Treasurer be drawn for the sum of forty-seven dollars and eighty-five cents, for

incidental expenses, advanced by the Secretary of the Senate; also, for additional assistance engaged by him at the opening proceedings of this Court; also, in favor of the postmaster at Lansing, for such sum as may be necessary to pay postage on Journals and Impeachment Proceedings ordered mailed to the members of the Senate.

On motion of Mr. Jenks,

The Senate sitting as a Court of Impeachment, adjourned until to-morrow morning at eight o'clock.

Lansing, Friday, A. M., May 24, 1872.

The Senate met at eight o'clock and was called to order by the President *pro tem.*

The Sergeant-at-Arms made the usual proclamation.

The Secretary called the roll, and a quorum of the Senate answered to their names.

Senator Barber—Mr. President, I offer the following resolution.

The Secretary read the resolution, as follows:

Resolved, That the President and Secretary be allowed until Saturday, the second day of June, to complete the business of the Senate, and that they have *per-diem* allowance to that date.

Senator Barber—Mr. President, in explanation of this resolution I will say, that I understand it will require, in order to close up the business of the President and Secretary, nearly the whole of next week, as they are obliged to estimate and measure the work of the reporters, and other business, and there is no provision for paying them unless this resolution is passed.

The resolution was adopted.

Senator Barber—Mr. President, I offer the following resolution:

The Secretary read the resolution, as follows:

Resolved, That the thanks of the Senate be extended to the Secretary, to the Sergeant-at-Arms and his assistants, and to the reporters, for their uniform courtesy and ability, exercised in the discharge of their duties during the progress of this impeachment trial.

Senator Barber—Mr. President, in explanation of this resolution, I desire to say, that a resolution was introduced and adopted yesterday, thanking some of the officers of the Senate, and I introduce this for the purpose of extending the same courtesy to other officers.

The resolution was adopted.

Senator Wheeler—Mr. President, I offer the following resolution:

The Secretary read the resolution, as follows:

Resolved, That the *per diem* of Charles T. Dickey, Sergeant-at-Arms, be fixed at the sum of five dollars per day instead of four dollars per day.

The resolution was adopted.

Senator Romeyn—Mr. President, in accordance with the provisions of the order adopted last evening, I desire to place on file a short opinion upon the preliminary question, raised at the commencement of the trial.

The Presiding Officer—The opinion will be received, filed, and printed with the record.

Senator Briggs—Mr. President, I have a resolution which I desire to submit for the consideration of the Senate, and move its adoption.

The Secretary read the resolution, as follows:

Resolved, That the *per diem* of the Assistant Sergeant-at-Arms be increased to five dollars per day.

Senator Jenks—Mr. President, I would inquire if the Assistant Sergeant-at-Arms and others do not receive pay when they go after witnesses, for traveling?

The Presiding Officer—Nothing but a *per diem* and actual expenses,—no mileage.

Senator Prutzman—Mr. President, there is some inquiry as to whether it is to extend during the whole time the Court has been in session, to all the Assistant Sergeants-at-Arms.

The Presiding Officer—There is only one mentioned in the resolution.

Senator Prutzman—Is it the Sergeant-at-Arms, or is it the present assistant, or prior assistant?

The Presiding Officer—It is the assistant of the present Sergeant-at-Arms. The resolution reaches only one.

The yeas and nays were called and the resolution adopted, by the following vote:

YEAS.

Mr. Alexander,	Mr. Gay,	Mr. Wheeler,
Barber,	Hannahs,	Wilcox,
Begole,	Putnam,	Wood,
Briggs,	Romeyn,	President,
Cawley,	Stockbridge,	*pro tem.*,
Dexter,		15

NAYS.

Mr. Jenks,	Mr. Price,	Mr. Stoddard,
Mann,	Prutzman,	Storrs,
Moffatt,	Randall,	Waterbury,
Neasmith,	Sheley,	11

Senator Jenks—Mr. President, I move that the Senate Chamber be cleared for the purpose of consultation upon the Articles of Impeachment.

The motion prevailed, and the Senate went into secret session upon the Articles of Impeachment.

At nine o'clock the doors were again opened, and the Managers on the part of the House, and the respondent and his counsel, entered the Chamber and took their seats.

Senator Wheeler—Mr. President, I move we proceed to vote upon the Articles of Impeachment exhibited against Charles A. Edmonds, Commissioner of the State Land Office;

Which motion prevailed.

The Presiding Officer—Mr. Secretary, you will read the First Article.

The Secretary read the Article, as follows:

"That said Charles A. Edmonds, Commissioner of the Land Office of the State of Michigan, on the fourth day of January, 1871, and on diverse other days and times, between that day and the time when said House of Representatives passed the resolution of impeachment against him, to wit: the 28th day of March, 1872, unmindful of the high duties of his office, of his oath of office, and of the requirements of the Constitution and the laws of this State, did corruptly, unlawfully, and in violation of the Constitution and laws of this State, withhold from sale divers large tracts of land for the particular benefit and advantage of certain land-dealers, and for a private pecuniary consideration to himself, his Deputy, and clerks, to the damage and inconvenience of the actual settlers, other dealers, and the people of the State generally; and the said Charles A. Edmonds, Commissioner of the State Land Office, was in this manner then and there guilty of corrupt conduct in office, and did commit a misdemeanor in office."

The Presiding Officer—The Secretary will call the roll.

The Secretary called the name of Mr. Alexander, and he arose in his place.

The Presiding Officer—Mr. Senator Alexander, how say you? Is the respondent, Charles A. Edmonds, Commissioner of the State Land Office of the State of Michigan, guilty, or not guilty, as charged in this Article.

Senator Alexander—Not guilty.

As the calling of the roll proceeded, each Senator arose in his place, when the name was called, and the Presiding Officer put the same question, as above.

The following is the vote:

GUILTY.

Mr. Ball,	Mr. Mann,	Mr. Stoddard,
Begole,	Moffatt,	Storrs,
Cawley,	Neasmith,	Waterbury,
Dexter,	Romeyn,	Wheeler,
Gay,	Sheley,	Wilcox,
Jenks,		16

NOT GUILTY.

Mr. Alexander,	Mr. Price,	Mr. Stockbridge,
Barber,	Prutzmam,	Wood,
Briggs,	Putnam,	President
Hannahs,	Randall,	*pro tem.*, 11

The Presiding Officer—Upon Article I., sixteen Senators have pronounced "Guilty," and eleven "Not guilty." Two-thirds of the Senators elect not having pronounced "Guilty," the Commissioner of the Land Office is acquitted upon this Article.

The Secretary will read Article II.

The Secretary read the Article, as follows:

"That said Charles A. Edmonds, Commissioner of said State Land Office, on divers days and times, between the time of assuming the duties of his office, to wit: about the fourth day of January, 1871, and the day of the passage of the said resolution of impeachment, the basis of these articles, unmindful of the high duties of his office, of his oath of office, and in violation of the Constitution and laws of the State of Michigan, and contrary to the provisions of an act entitled "An act to prevent officers and clerks in the State Land Office, and in Auditor General's Office, from purchasing lands while in the employ of the State," approved March 16, 1861, did corruptly, unlawfully, by himself, and with his Deputy, and also with his clerks in said office, directly and indirectly engage in the purchase of lands from the State, and for sale in the Land Office of this State, of which he was chief.

"And the said Charles A. Edmonds, Commissioner of the State Land Office, was thus, then, and there guilty of corrupt conduct in office, and did commit a high misdemeanor in office."

The Presiding Officer—The Secretary will call the roll.

Each Senator, as his name was called, rose in his place, and the President *pro tem.* proposed to him the following question:

"Mr. Senator ———, how say you? Is the respondent, Charles A. Edmonds, Commissioner of the State Land Office

of the State of Michigan, guilty, or not guilty, as charged in this Article ?"

Before the vote was announced, Mr. Alexander said: Mr. President, I ask permission of this Court to change my vote to "Not guilty."

The Presiding Officer—The Chair is not aware that the vote can be changed; when it is once recorded, it is recorded for all time.

The following is the vote upon Article II.:

GUILTY.

Mr. Alexander,	Mr. Jenks,	Mr. Stoddard,	
Briggs,			4

NOT GUILTY.

Mr. Ball,	Mr. Moffatt,	Mr. Stockbridge,	
Barber,	Neasmith,	Storrs,	
Begole,	Price,	Waterbury,	
Cawley,	Prutzman,	Wheeler,	
Dexter,	Putnam,	Wilcox,	
Gay,	Randall,	Wood,	
Hannahs,	Romeyn,	President	
Mann,	Sheley,	*pro tem.*,	23

The Presiding Officer—Upon Article II., four Senators have pronounced "Guilty," and twenty-three "Not guilty." The Commissioner of the State Land Office is therefore acquitted upon this Article, two-thirds of the Senate elect not having pronounced "Guilty."

The Secretary will read Article III.

The Secretary read the Article, ae follows:

"That said Charles A. Edmonds, Commissioner of said State Land Office, unmindful of the duties of his office, and his oath of office, having knowledge that large numbers of actual settlers to whom license had been issued in pursuance of act No. 108, Session Laws of 1861, being an act entitled "An act to amend an act entitled 'An act to provide for the settlement and drainage of the swamp lands by actual settlers,' being act No. 229, laws of 1859," were in possession of their lands under their said licenses, and had been in possession thereof

for a long time, and made valuable improvements thereon, and complied with the laws of this State in regard to licensing lands to actual settlers fully, except filing with the Commissioner of the Land Office the proofs of settlement and occupancy, required by section four of said act No. 108, laws of 1861, and he, the said Edmonds, being acquainted with the practice in said office ever since the passage of said act No. 108, laws of 1861, to withhold from sale such licensed lands, except in cases where proofs by the affidavit of two credible witnesses was filed, showing non-settlement and abandonment by the licensee, did corruptly, and for the purpose of pecuniary gain to himself, his Deputy, and clerks, about the month of October, 1871, decide that such lands were subject to sale without such proof of non-settlement or abandonment, as had been the practice of said office, and he, the said Charles A. Edmonds, did then and there, by himself, his Deputy, and clerks, corruptly, and for the purpose of securing gain as aforesaid, furnish to divers persons the description of such licensed lands, when the proofs of settlement and occupancy had not been filed in accordance with said section four aforesaid, which said persons purchased said lands, and to whom said Commissioner issued patents, whereby a gross fraud was practiced upon such actual settlers, and large profits and gains made, in which said Edmonds, his Deputy, and clerks were interested.

"And said Edmonds, being so unmindful of his duty and oath of office, and the policy of the State to protect the actual settlers, has corruptly furnished and permitted his Deputy and clerks corruptly to furnish such descriptions of licensed lands to divers persons, on divers days and times, since the decision aforesaid, and before the passage of the resolution of impeachment by the House of Representatives, which said persons purchased said descriptions, to whom patents were issued by said Commissioner, he, said Commissioner, his Deputy, and clerks being indirectly interested therein.

"And the said Charles A. Edmonds, Commissioner of the State Land Office, was thus, then, and there guilty of corrupt conduct in office, and did commit a misdemeanor in office."

The Presiding Officer—The Secretary will call the roll.

Each Senator, as his name was called, rose in his place, and the President *pro tem.* proposed to him the following question:

"Mr. Senator ———, how say you? Is the respondent, Charles A. Edmonds, Commissioner of the State Land Office, of the State of Michigan, guilty, or not guilty, as charged in this Article?"

The following is the vote upon Article III.:

GUILTY.

Mr. Begole,	Mr. Jenks,	Mr. Stoddard,
Cawley,	Mann,	Storrs,
Dexter,	Putnam,	Waterbury,
Gay,	Sheley,	Wheeler, . 12

NOT GUILTY.

Mr. Alexander,	Mr. Neasmith,	Mr. Wilcox,
Ball,	Price,	Wood,
Barber,	Prutzman,	President
Briggs,	Randall,	*pro tem.*,
Hannahs,	Romeyn,	15
Moffatt,	Stockbridge,	

The Presiding Officer—Upon this Article, twelve Senators vote "Guilty," and fifteen Senators, "Not guilty." Two-thirds of the Senators elect not having pronounced "Guilty," the Commissioner of the Land Office is acquitted upon this Article.

The Secretary will read Article IV.

The Secretary read the Article, as follows:

"That said Charles A. Edmonds, Commissioner of the State Land Office, unmindful of the high and responsible duties of his office, and of his oath of office, on the first day of June, 1871, in the said Land Office, at Lansing, in the county of Ingham, and on divers other days and times during his official term at Lansing, aforesaid, did unlawfully conspire with one

William G. Patrick, and divers other persons unknown, fraudulently to withhold from sale, and mark, or cause to be marked, as sold, large quantities of State lands, for the benefit of said conspirators, in fraud of other *bona fide* purchasers and settlers, with the intent to cheat and defraud such *bona fide* purchasers and actual settlers, and all others who might wish to purchase the same.

"And in pursuance of said conspiracy the said Charles A. Edmonds did mark, or cause to be marked, in said office, on the plat-books thereof, as sold, large tracts of land that were not sold, by which Edmonds, his Deputy, and clerks in office corruptly received large sums of money; and said Charles A. Edmonds, Commissioner of the State Land Office, was guilty of corrupt conduct in office, a violation of his oath of office, and a great fraud upon the people of this State."

The Presiding Office—The Secretary will call the roll.

Each Senator, as his name was called, rose in his place, and the President *pro tem.* proposed to him the following question:

"Mr. Senator ——, how say you? Is the respondent, Charles A. Edmonds, Commissioner of the State Land Office of the State of Michigan, Guilty, or Not guilty, as charged in this Article?"

The following is the vote:

GUILTY. 0

NOT GUILTY.

Mr. Alexander,	Mr. Mann,	Mr. Stockbridge,
Ball,	Moffatt,	Stoddard,
Barber,	Neasmith,	Storrs,
Begole,	Price,	Waterbury,
Briggs,	Prutzman,	Wheeler,
Cawley,	Putnam,	Wilcox,
Dexter,	Randall,	Wood,
Gay,	Romeyn,	President
Hannahs,	Sheley,	*pro tem.*,
Jenks,		27

The Presiding Officer—The Commissioner of the State Land Office is unanimously acquitted upon Article IV.

The Secretary will read Article V.

The Secretary read the Article, as follows:

"That said Charles A. Edmonds, Commissioner of the said State Land Office, from time to time, from the commencement of his official term in January, 1871, to the time of the passage of the resolution of impeachment in this case, to wit: the 28th of March, 1872, unmindful of the high duties of his office, in violation of his official duties, his oath of office, and the laws of this State, did, in his office, and with his Deputy in office, and in his official time, so engage in, and carry on, the purchase and sale of swamp land "scrip" (so-called), as to operate in fraud of, and to the damage of the primary school fund, the several counties of this State, and of the Treasury of the State.

"And the said Charles A. Edmonds, Commissioner of the State Land Office, was in this manner then and there guilty of corrupt conduct in office, and did commit a misdemeanor in office."

The Presiding Officer—The Secretary will call the roll.

Each Senator, as his name was called, rose in his place, and the President *pro tem.* proposed to him the following question:

"Mr. Senator ———, how say you? Is the respondent, Charles A. Edmonds, Commissioner of the State Land Office of the State of Michigan, guilty, or not guilty, as charged in this Article."

The following is the vote:

GUILTY.

Mr. Begole,	Mr. Mann,	Mr. Storrs,
Cawley,	Romeyn,	Waterbury,
Jenks,	Sheley,	8

NOT GUILTY.

Mr. Alexander,	Mr. Moffatt,	Mr. Stoddard,
Ball,	Neasmith,	Wheeler,
Barber,	Price,	Wilcox,
Briggs,	Prutzman,	Wood,
Dexter,	Putnam,	President
Gay,	Randall,	*pro tem.*,
Hannahs,	Stockbridge,	19

The Presiding Officer—Upon Article V., eight Senators vote "Guilty," and nineteen Senators vote "Not guilty." The Commissioner of the State Land Office is therefore acquitted upon Article V., two-thirds of the Senators elect not having pronounced "Guilty."

The Secretary will read Article VI.

The Secretary read the Article, as follows:

"That said Charles A. Edmonds, Commissioner of the State Land Office, during his official term as such Commissioner, to wit: from about the first day of January, 1871, to the 28th day of March, 1872, unmindful of the high and responsible duties of his office, of his oath of office, and disregarding the rights of the people of this State, and for the corrupt and unlawful purpose of personal benefit and gain, did appoint and keep in his office, as clerks, certain men of dissolute habits and character, and unworthy the high trust and confidence necessarily required of men in their positions, and did, also, allow his clerks in office, in violation of the laws of this State, to purchase, directly and indirectly, from the State, lands for sale in said Land Office, and to be interested in purchases made in the name of others, directly and indirectly, and to traffic, and corruptly sell and get unlawful gain, in the sale of valuable information contained in such office, within their knowledge as such clerks, and to act as the agents, for reward, of certain land-dealers, in entering land, thus giving such dealers an undue advantage over others seeking the entry of lands at said office.

"And the said Charles A. Edmonds, Commissioner of the State Land Office, was thus, then, and there, guilty of corrupt conduct in office, and did commit a misdemeanor in office."

[Senator Waterbury being in feeble health, the Presiding Officer informed him that if he desired, he need not rise when his name was called, and upon the remaining Articles the Senator gave his vote sitting in his place.]

The Presiding Officer—The Secretary will call the roll.

Each Senator, as his name was called, rose in his place, and the President *pro tem.* proposed to him the following question:

"Mr. Senator ———, how say you? Is the respondent, Charles A. Edmonds, Commissioner of the State Land Office of the State of Michigan, guilty, or not guilty, as charged in this Article?"

The following is the vote:

GUILTY.

Mr. Begole,	Mr. Moffatt,	Mr. Storrs,	
Cawley,	Neasmith,	Waterbury,	
Dexter,	Putnam,	Wheeler,	
Hannahs,	Romeyn,	Wood,	16
Jenks,	Sheley,		
Mann,	Stoddard,		

NOT GUILTY.

Mr. Alexander,	Mr. Gay,	Mr. Stockbridge,	
Ball,	Price,	Wilcox,	
Barber,	Prutzman,	President	
Briggs,	Randall,	*pro tem.*,	11

The Presiding Officer—Upon this Article, sixteen Senators vote "Guilty," and eleven Senators vote "Not guilty." Two-thirds of the Senators elect not having pronounced "Guilty," the Commissioner of the Land Office is acquitted upon Article VI.

The Secretary will read Article VII.

The Secretary read the Article, as follows:

"The said Charles A. Edmonds, being a public officer of the State of Michigan, through whose hands public moneys pass, to wit: the Commissioner of the Land Office aforesaid, has at divers times during the present term of his said office, and as such officer, received moneys current by the laws of the United States as moneys in payment for certain lands belonging to the State of Michigan, and has corruptly, and in violation of the laws of this State, and especially in violation of section two hundred and thirty-four of the Compiled Laws of eighteen hundred and fifty-seven, converted or changed said moneys into swamp land scrip, so called, retaining said moneys for his

own use and benefit, in whole or in part, and entering said lands, in payment for which he had received said moneys, as purchased and paid for by said scrip, and has not deposited or turned over to the proper officer of the State said moneys, so received in purchase of said lands.

"By reason whereof the said Charles A. Edmonds has committed a crime against the laws of this State, and is guilty of misconduct in office."

The Presiding Officer—The Secretary will call the roll.

Each Senator, as his name was called, rose in his place, and the President *pro tem.* proposed to him the following question:

"Mr. Senator ———, how say you? Is the respondent, Charles A. Edmonds, Commissioner of the State Land Office of the State of Michigan, guilty, or not guilty, as charged in this Article?"

After the Secretary had called the roll, Senator Alexander said: Mr. President, I do not wish to change my vote, but I wish to correct it; I wish to vote "Not guilty." I voted "Guilty" under a misapprehension as to the Article.

The Presiding Officer—The Secretary will correct the mistake.

The following is the vote:

GUILTY.

Mr. Sheley, 1

NOT GUILTY.

Mr. Alexander,	Mr. Jenks,	Mr. Stockbridge,
Ball,	Mann,	Stoddard,
Barber,	Moffatt,	Storrs,
Begole,	Neasmith,	Waterbury,
Briggs,	Price,	Wheeler,
Cawley,	Prutzman,	Wilcox,
Dexter,	Putnam,	Wood,
Gay,	Randall,	President
Hannahs,	Romeyn,	*pro tem.*, 26

The Presiding Officer—Upon this Article, one Senator votes "Guilty," and twenty-six Senators vote "Not guilty." Two-thirds of the Senators elect, not having pronounced "Guilty,"

the Commissioner of the State Land Office is acquitted upon Article VII.

The Secretary will read Article VIII.

The Secretary read the Article, as follows:

"That said Charles A. Edmonds, Commissioner of the State Land Office, unmindful of the dignity and high duties of this office, and of the wholesome requirements of the laws of the State, on or about the first day of March, 1872, at the city of Lansing, the Capital of this State, contriving and intending to debauch and corrupt the morals, as well of youth as of others, good citizens of this State, did, at the time and place aforesaid, and at other times and in other places in this State, unlawfully, wickedly, maliciously, and scandalously publish, circulate, and distribute, or cause to be published, circulated, and distributed, a certain anonymous and obscene printed paper entitled 'Every Wednesday Night,' containing impure, scandalous, and obscene matters, language, and description, manifestly unbecoming the dignity of his office, a scandal in the community, and tending to the corruption of the morals of youth, and other good citizens of this State, and to the evil example of all others, and in violation of the laws of the State, and against the peace and dignity of the people of this State.

"And the said Charles A. Edmonds, Commissioner of the State Land office, did thus, then, and there commit and was guilty of a misdemeanor, contrary to the form of the statute, and against the peace and dignity of the people of the State of Michigan."

The Presiding Officer—The Secretary will call the roll.

Each Senator, as his name was called, rose in his place, and the President *pro tem.* proposed to him the following question:

"Mr. Senator ———, how say you? Is the respondent, Charles A. Edmonds, Commissioner of the State Land Office of the State of Michigan, guilty or not guilty, as charged in this Article?"

The following is the vote:

GUILTY.

Mr. Begole,	Mr. Putnam,	Mr. Storrs,
Cawley,	Romeyn,	Waterbury,
Dexter,	Sheley,	Wilcox,
Mann,	Stockbridge,	Wood,
Price,	Stoddard,	14

NOT GUILTY.

Mr. Alexander,	Mr. Hannahs,	Mr. Randall,
Ball,	Jenks,	Wheeler
Barber,	Moffatt,	President
Briggs,	Neasmith,	*pro tem.*,
Gay,	Prutzman,	13

The Presiding Officer—Upon this Article, fourteen Senators vote "Guilty," and thirteen Senators "Not guilty." Two-thirds of the Senators elect not having pronounced "Guilty," the Commissioner of the State Land Office is acquitted upon Article VIII.

The Secretary with read Article IX.

The Secretary read the Article, as follows:

"That the said Charles A. Edmonds did during the months of March or April last past, and while he was such Commissioner of said Land Office, knowingly, willfully, and maliciously, at Laporte, in the State of Indiana, and elsewhere in the United States, deposit, or cause to be deposited, in the postoffice at said Laporte, and in the several postoffices at other places in the United States, for mailing, or for delivery from said post-office or postoffices, a certain obscene print or publication, in the form of newspapers, and entitled 'Every Wednesday Night,' knowing the same to be of a vulgar and indecent character, in violation of the laws of the United States, and especially of a statute of the United States entitled 'An act relating to the postal laws,' approved March 3, 1865.

"By which act of depositing, or causing to be deposited, said print or publication, in said postoffice at said Laporte and elsewhere, he, the said Charles A. Edmonds, did commit a crime against the laws of the United States."

The Presiding Officer—The Secretary will call the roll.

Each Senator, as his name was called, rose in his place, and the President *pro tem.* proposed to him the following question:

"Mr. Senator——, how say you? Is the respondent, Charles A. Edmonds, Commissioner of the State Land Office of the State of Michigan, guilty, or not guilty, as charged in this Article?"

The following is the vote:

GUILTY.

Mr. Begole,	Mr. Price,	Mr. Storrs,	
Cawley,	Putnam,	Waterbury,	
Dexter,	Sheley,		8

NOT GUILTY.

Mr. Alexander,	Mr. Mann,	Mr. Stoddard,	
Ball,	Moffatt,	Wheeler,	
Barber,	Neasmith,	Wilcox,	
Briggs,	Prutzman,	Wood,	
Gay,	Randall,	President	
Hannahs,	Romeyn,	*pro tem.*,	
Jenks,	Stockbridge,		19

The Presiding Officer—Upon this Article, eight Senators vote "Guilty," and nineteen Senators vote "Not guilty." Two-thirds of the Senators elect not having pronounced "Guilty," the Commissioner of the State Land Office is acquitted upon Article IX.

The Secretary will read Article X.

The Secretary read the Article, as follows:

"That said Charles A. Edmonds, Commissioner of the State Land Office, unmindful of the dignity of his office, his duties, his oath of office, and the requirements of the laws of this State, at divers times during his official term as such Commissioner, since the fifth day of July, 1871, at the city of Lansing and in other places within this State, has been drunk, or so affected by his drinking of intoxicating liquors, as to disgrace his office and unfit him for the discharge of his official duties; and the said Charles A. Edmonds, Commissioner of the State Land office, did thus and then and there show good cause for

his removal from office, under the provisions of an act entitled 'An act to subject all persons holding office under the government of the State of Michigan to removal from office for drunkenness,' approved April 5, 1871."

The Presiding Officer—The Secretary will call the roll.

Each Senator, as his name was called, rose in his place, and the President *pro tem.* proposed to him the following question:

"Mr. Senator ——, how say you? Is the respondent, Charles A. Edmonds, Commissioner of the State Land Office of the State of Michigan, guilty, or not guilty, as charged in this Article?"

The following is the vote:

GUILTY. 0

NOT GUILTY.

Mr. Alexander,	Mr. Mann,	Mr. Stoddard,
Ball,	Moffatt,	Storrs,
Barber,	Neasmith,	Waterbury,
Begole,	Price,	Wheeler,
Briggs,	Prutzman,	Wilcox,
Cawley,	Putnam,	Wood,
Dexter,	Randall,	President
Gay,	Romeyn,	*pro tem.*,
Hannahs,	Sheley,	27
Jenks,	Stockbridge,	

The Presiding Officer—Upon Article X., the Commissioner of the State Land Office is unanimously acquitted.

The Secretary will read Article XI.

The Secretary read the Article, as follows:

"That said Charles A. Edmonds, Commissioner of the State Land Office, unmindful of the dignity, high duties, and position of his office, and of the laws of this State, and the wholesome requirements of the laws of decency and morality, did, on or about the tenth day of October, 1871, at the city of Lansing, situated in the county of Ingham, at the Lansing House, commit adultery with a female whose name is unknown, he, the said Edmonds, then and there being a married man; and did also, since he entered upon the duties of his said office, at divers other times and places in said Lansing, commit fur-

ther and other adulteries, against the form of the statute in such case made and provided, and against the peace and dignity of the people of this State.

"And the said Charles A. Edmonds, Commissioner of the State Land Office, did thus, then, and there commit and was guilty of a crime, contrary to the statute in such case made and provided, and against the peace and dignity of the people of the State of Michigan."

The Presiding Officer—The Secretary will call the roll.

Each Senator, as his name was called, rose in his place, and the President *pro tem.* proposed to him the following question:

"Mr. Senator ———, how say you? Is the respondent, Charles A. Edmonds, Commissioner of the State Land Office of the State of Michigan, guilty, or not guilty, as charged in this Article?"

The following is the vote:

GUILTY.

Mr. Begole, 1

NOT GUILTY.

Mr. Alexander,	Mr. Mann,	Mr. Stockbridge,
Ball,	Moffatt,	Stoddard,
Barber,	Neasmith,	Storrs,
Briggs,	Price,	Waterbury,
Cawley,	Prutzman,	Wheeler,
Dexter,	Putnam,	Wilcox,
Gay,	Randall,	Wood,
Hannahs,	Romeyn,	President
Jenks,	Sheley,	*pro tem.*, 26

The Presiding Officer—Upon this Article, one Senator votes "Guilty," and twenty-six Senators vote "Not guilty." Two-thirds of the Senators elect not having pronounced "Guilty," the Commissioner of the State Land Office is acquitted upon Article XI.

By a vote of the Senate, the Commissioner of the State Land Office stands acquitted upon all the Articles presented against him.

What is the pleasure of the Senate?

Senator Briggs—Mr. President, under the rule adopted last evening, I beg leave to forward to the Secretary's desk an opinion.

The Presiding Officer—The Senator from the Third, under leave of the Senate, files an opinion in the case, which the Secretary will receive, file, and have printed with the Proceedings.

Mr. Alexander moved that the Secretary be authorized to draw an order for the amounts advanced by the several Managers for their expenses incurred in the trial of this impeachment;

Which motion prevailed.

Mr. Ball offered the following resolution, which was adopted:

Resolved, That the Secretary of the Senate is hereby authorized and required to forward to each member of the Senate, to each Manager, and to the respondent and his counsel, three copies of the Impeachment Record, as prepared and bound by the State Printer.

On motion of Mr. Romeyn,

The Senate, sitting as a Court of Impeachment, adjourned without day.

APPENDIX.

APPENDIX.

ARGUMENT OF HON. IRA R. GROSVENOR,

IN SUPPORT OF THE

ARTICLES OF IMPEACHMENT.

MR. PRESIDENT AND GENTLEMEN OF THE SENATE: By an arrangement among the Managers on the part of the House of Representatives, the duty devolves on me of closing the argument on behalf of the people. The patient and watchful attention the Honorable Senators have given to the protracted proceedings of the trial; their ripe experience as men representing so well all classes of industry, and the wealth of all people; their appreciation of the principles involved, and the importance of this case to the people of this State and the respondent at the bar, with my own consciousness of the able manner in which my associate Managers have presented the cause, would seem to excuse any protracted effort from me in this concluding duty of a trust in part confided to me.

I can scarcely hope to present the case in any new and stronger light, or suggest a thought that will aid you in coming at a conclusion upon any point about which you may now be in doubt; yet a sense of obligation I cannot escape if I would, compels me to give you my views upon the law and the facts bearing upon this case, and respectfully solicit your further attention, for a short time, in behalf of the prosecution.

For the first time in the history of our State has it been necessary to organize this high and peculiar tribunal of the people for the trial of an impeachment. The necessity that convened it will find in it ample power for the purpose of trying the accusation, and, if true, of dismissing from office and power one who is accused of corruption in office, of abusing his official trust, of violating the penal and moral statute of the State, to such an extent as to disgrace his office and render him a reproach to the people. The jurisdiction of this Court to try all impeachments made by the House of Representatives, is original and exclusive. Its action is without control, review, or appeal, and its judgment is conclusive. With no power over the life, liberty, or property of the citizen, it was designed to furnish a plain, simple and adequate remedy, by removal from office of the unfaithful, corrupt, and dissolute office-holder, and thus protect the State from abuse of power by its civil officers.

The several courts of our State have, in their limitations, the exclusive jurisdiction to hear, try and determine all matters affecting life, liberty, or property, according to the known and established rules of the statute and the common laws, but have no power to displace from office one whom the people have elevated. That power, in the fundamental law, is reserved for the representatives of the people in the two branches of the Legislature.

"The House of Representatives shall have the sole power to impeach, and the Senate to try all civil officers of the State for corrupt conduct in office, or for crimes and misdemeanors" —Article XII., Sections 1 and 2, Con.

"The judicial power is vested in one Supreme Court, in circuit courts, in probate courts, and in justices of the peace," and in certain municipal courts in cities—Article VI., Section 1, Con.

"Circuit court shall have original jurisdiction in all matters civil and criminal," etc.—Article VI., Section 8.

The power of probate court and courts of justice are equally well defined by the Constitution and laws. Thus plainly has this organic law marked the lines of jurisdiction of the several courts of this State, including that of this tribunal.

It has been contended by the learned counsel for respondent, throughout this trial, that this is a criminal proceeding, and that the rules of practice governing trials in criminal cases shall be the governing rule here. If criminal, the respondent is entitled to a constitutional jury, the right of challenge for favor or other causes, and the benefit of all doubts upon law or fact. Can it be criminal?

If you convict, he is still liable for the offense, if a crime, in the State courts.—Article XII., Section 3. And no person shall be twice put in jeopardy for the same offense.—Article VI. Section 29.

The Constitution in the plainest manner has thus indicated that this proceeding cannot be held as criminal. It is important to determine in the outset the question, whether this proceeding be civil or criminal. If civil, you will determine the case as in civil actions in the courts, upon the preponderance of proof. If criminal, then the respondent will be entitled to the benefit of all doubts.

The early cases of impeachment in England, where the judgment affected the life, liberty, and property, and all the sacred rights of the citizen, and where the guilty were often led from the House of Lords to prison or the scaffold, then it was beyond all question, in cases affecting life or liberty, a criminal proceeding. While we borrowed from the mother country our notions of the right to impeach civil officers, we have, by the same fundamental law declaring the power to impeach, taken from it its former terror, in limiting the judgment to a simple removal from office. I claim that no precedent or practice in this country can be produced, establishing the proceeding as criminal, though this has uniformly been claimed by the respondent, and denied by the prosecution in this case.

The sole object of this proceeding to impeach is to remove from office the respondent, a civil officer of the State, accused of corrupt conduct in office, and also of crime and misdemeanors. The question to be determined is, whether Charles A. Edmonds, Commissioner of the Land Office, a constitutional civil officer of this State, is guilty as charged, and if so, shall he longer hold the office to the injury of the State and the disgrace of the official position? In other words, has he violated the express or implied obligation of his compact with the people, to discharge with fidelity the duties of his office, and so demeaned himself in office as to disgrace it, and render himself less useful and beneficial to the interests of the State than was reasonable to have been expected?

The nature of the obligation he assumed when he took the office, confirmed by an oath, was that of a compact with the people to serve faithfully for the price stipulated, having reference to the Constitution and laws of the State, as to his duties and obligations.

Among other things agreeing, that if convicted of crime, or of any offense involving a violation of his oath of office, his office should be deemed vacant.—C. L. 1871, Sec. 227.

Officers, in their official character, voluntarily surrender a part of the rights they enjoy as citizens, in return for the honor and emoluments of office. They voluntarily submit to this tribunal to test the fidelity of their official acts, and their character and conduct while serving the people. This is a part of the implied compact between the people and the officer. This compact is somewhat similar to an agreement between master and servant. The employer may discharge his hired servant, for gross vice and immorality, as well as for neglect or refusal to perform the duties of his situation. If the servant was discharged for misconducting his employer's business, or for crime, before the end of his term, and he should bring an action for wages for his entire time, and the question was whether the servant had violated his agreement and forfeited

his place, no sound lawyer would contend that the case was one of crime, in which he should have the benefit of doubts.

The proceedings in this case have no analogy to a trial for crime, either in form or substance. It is more in the nature of a civil action to inquire into the official conduct of one who, for a consideration, has undertaken to perform certain duties for the public in a prescribed manner.

The statute defining the Commissioners' powers and duties, among other things gives him the sole power to appoint his Deputy and clerks, and remove them at pleasure, and declare "he shall be responsible for their official acts."

The nature of his duties, the specific manner in which they are declared in the law governing the land department, as well as the plain obligations of his oath of office to discharge faithfully all the duties of his office, indicate that his obligations to the people are in the nature of a compact, and that his right to continue in office depends upon his fidelity to the trust assumed by him after being elected by the people.

There is a principle of mutuality in the nature of his office, his duties, and his obligations to the people. In testing his right to remain, involves an inquiry into his official fidelity and the manner in which he has discharged these obligations.

The respondent may have been guilty of corrupt conduct in office by an abuse of discretionary power, as in his act with homesteader Bouch, and yet not have violated any statute of the State. He may have worked a forfeiture of his office by non-performance of his express or implied compact with the people, in violation of his oath.

Mr. Curtiss, in his Commentary on the Constitution, declares "impeachment is not necessarily a trial for crime," but a proceeding to ascertain whether cause exists for removal of a public officer from office.

The object of this trial is to expel from office the Commissioner of the State Land Office. The motive is, the honor, safety, and security of the public in the land department of

the State; the protection of the citizen, homesteader, settler, and purchaser; the preservation of the large land inheritance of the State for educational and internal-improvement purposes, and securing the aim and object of the land grants. Nothing less would have justified these proceedings.

If punishment was the object, then the aid of the criminal courts would be sought, where the ordinary rules of evidence as to doubts could be applied. The safety of the people and preservation of their rights being the supreme law, the people in these proceedings should have the benefit of all doubts, and the respondent at this bar should convince you beyond reasonable doubt that he is not guilty of the several acts charged, which the testimony of the people strongly sustains, and that his remaining longer in office is consistent with the public good and safety.

The learned counsel for the respondent, insisting that these proceedings are criminal, seek to save him by claiming his ignorance of the acts proven to have been committed by his clerks, and also the benefit of doubts.

Senator Sumner, in his opinion of the Johnson impeachment, in speaking of the application of this rule of evidence, says:

"This is not a criminal trial where the rule prevails, Better that many guilty men should escape than that one innocent man should suffer. This rule, which is so proper in its place, is not applicable to a proceeding for expulsion from office."

On principle and authority, it would seem, these proceedings are of a civil character, and ought to be determined upon the preponderance of proof.

It is important in another point to determine whether the proceedings are civil or criminal. If civil, the proofs, considered in connection with certain presumptions of law and fact, are exceedingly damaging to the respondent, while, if criminal, these presumptions will not aid certain circumstantial evidence adduced to render certain that which may be deemed doubtful.

What I have further to say upon the presumptions arising upon the evidence or absence of evidence I shall reserve until I come to speak of the facts proven upon which the Managers urge a conviction; and, before entering upon the discussion of facts, I beg leave to call attention to our Constitution, considered solely from its history, its language construed by the well-established rules of the statutes and common law.

Of all the authority presented in this case upon the subject of impeachable offenses, not one of them has defined what is proper matter for impeachment. Neither American precedents nor writers on the Constitution have established what are and what are not proper subjects of impeachments.

Rawle on the Constitution, page 19, on this subject says:

"The delegation of important trusts affecting the higher interests of society is always from various causes liable to abuse. The fondness frequently felt for inordinate power, the influence of party and of prejudice, the seduction of foreign states, or the baser appetite for illegitimate emolument are sometimes productive of what are not inaptly termed political offenses, which it would be difficult to take cognizance of in the ordinary course of judicial proceedings.

"The involutions and varieties of vice are too many and too artful to be anticipated by positive law, and sometimes too subtle and mysterious to be fully detected in the limited period of ordinary investigation.

"As progress is made in the inquiry, new facts are discovered which may be properly connected with others already known, but would not form sufficient subjects for separate prosecutions. On these accounts a peculiar tribunal seems both useful and necessary; a tribunal of liberal and comprehensive character, confined as little as possible to strict forms, enabled to continue its sessions as long as the nature of the case may require, qualified to view the charge in all its bearings and dependencies, and to appreciate on sound principles of public policy the defense of the accused."

The base appetite of the Commissioner "*for illegitimate emolument*" is fully manifest in his transactions in land scrip (a mere representative of land) in his office, carried on with the connivance and assistance of his Deputy and chief clerk, and also in his corrupt silence in allowing Cornell, in connection with Van Dunham, to swindle the homesteader Bouch out of his only team.

Again, "Story," Sec. 746 and 7, says:

"Impeachment is intended to reach personal misconduct, or gross neglect, or usurpation, or habitual disregard of the public interests, in the discharge of the duties of political office." And Mr. Curtiss, a later commentator, on page 360, says: "Impeachment is not necessarily a trial for crime; its purposes lie wholly beyond the penalty of the statute of the customary law." It is a proceeding "to ascertain *whether cause exists for removing a public officer from office.*" "As where the individual has, from *immorality*, or imbecility, or mal-administration, become unfit to exercise the office."

If the publishing of the infamously vile sheet entitled "Every Wednesday Night," (which he admits),—his publicly and unblushingly, by himself and with certain of his clerks, visiting a house of notorious ill-fame,—his repeated drunken carousals with certain of his dissolute clerks in public places,—if these are not acts of such "gross immorality" in a public officer as to disgrace his office, render him less useful, and destroy all confidence in his official integrity, and thus bring the offense within the definition given by "Curtiss" of impeachable offenses, it is difficult to immagine acts that would.

From the authorities, it would seem that the power to impeach is as broad as the Constitution, and that is as broad as the evil. All evil acts, examples, or influence committed by a civil officer of the State to the detriment of the public interests and welfare, are impeachable offenses. Neither the State nor the people must suffer any detriment by the acts of its officers.

Impeachment is one of the powers to remedy the evil of corrupt and dissolute officers, and maintain the honor and welfare of the State.

There is a peculiarity about the language of our Constitution: "The House of Representatives" shall have "the sole power of impeaching civil officers for corrupt conduct in office, or for crimes and misdemeanors." "*Corrupt conduct in office*" includes one branch or class of offenses, and "*crimes* and *misdemeanors*" another. Language cannot be plainer, broader, or more emphatic. The disjunctive "or" forbids a doubt as to the meaning of the phrases. That "all words and phrases shall be construed and understood according to the common usage of the language," is a statute and common-law rule of construction.

What is "corrupt conduct in office?" This term stands by itself, and is to have its own meaning. What does it mean? "Mal-conduct"—omitting to do duty, or doing that which is contrary to duty. It includes abuse of power, whether by overt acts or neglect.

The term "corrupt conduct in office" is broad enough and was intended to include all official acts, and must necessarily embrace crimes and misdemeanors connected with his office, such as fraud, embezzlement, etc.

The convention that framed our Constitution in this language did not stultify themselves. By the disjunctive, we must presume they meant different things by the different terms "*for corrupt conduct in office*," or for "*crimes and misdemeanors*,"—not in office, but crimes and misdemeanors by the law of the land.

One subject of impeachment is for "corrupt conduct in office." If he depart from duty, no matter how little, by willful act or omission, he is guilty.

Another matter of impeachment is "*crime and misdemeanors.*" Crimes and misdemeanors are technical words and phrases which have acquired a peculiar and appropriate mean-

ing in the law, and must be construed and understood according to such peculiar and appropriate meaning.

From time immemorial, crimes and misdemeanors have in the law been defined as "acts committed or omitted in violation of public law either forbidding it or commanding it."—4th Blacks. Com., 5, and Bishop's Criminal Law, 1 Vol., 43.

The statute of the State in force when the Constitution was framed and adopted, recognized offenses, and divided them into crimes and misdemeanors. Crimes, by our statute, are those offenses punishable by death or imprisonment in the State Prison.—C. L. 1857, Sections 59, 54, and 55. Misdemeanors are offenses of a lesser grade, and punishable by fine or imprisonment in the county jail, or both.—C. L. 1857, Sections 51, 21, and 58, 45, and 46. Under these general definitions, the Revised Statutes of 1838 and 1846 have particularly defined the offenses under each of these terms. Surely, the gentlemen composing the convention that framed the Constitution must be presumed to have had reference in the use of these terms and phrases, "crimes and misdemeanors," to what was then known and understood in the law as "crimes and misdemeanors." These terms have had a legal and technical meaning by statute and common law from the earliest history of the State, and a convention must be presumed to have used them in their well defined and understood sense.

The Revised Statutes of 1846, in force when this Constitution was adopted and now in force, Sec. 217, C. L. 1871, declare, "every office shall become vacant when the officer shall be convicted of an infamous crime, or of any offense involving a violation of his oath of office." In this act, we have upon the subject a legislative construction of this clause of the Constitution of 1835, which is the same language as the present Constitution upon the subject of impeachment.

If the office be declared vacant on conviction of the officer of crime or misdemeanors before a court of criminal jurisdiction; why may not the House accuse, and the Senate try, a

civil officer for offenses within the definition, committed while in office, without waiting the delay of a proceeding in the court of criminal jurisdiction? Before the offending officer could be brought to trial in the criminal courts, his term of office might expire.

Must the people endure in office one who, by crime, has disgraced his office, and become a reproach and a burden to the State, until the criminal court shall finally determine his guilt, or may he be removed by impeachment?

It seems to me it was the plain intention of the Constitution that the House of Representatives might, in its representative capacity, inquire into the official conduct and character of any civil officer of the State, and for "corrupt conduct in office," or for "crimes and misdemeanors" against the laws of the State, impeach him, if in their judgment the public good demands.

Here I may respectfully suggest, that if the House have the sole power to impeach civil officers of the State for corrupt conduct in office, or for crimes and misdemeanors, and in the exercise of this exclusive power they do impeach an officer for any of these matters, it is as exclusively the constitutional power and duty of the Senate, on oath, truly and impartially, to try and determine the same, *according to the evidence.*

The subject-matter of impeachment being, as I have before attempted to show, utterly undefined when the Constitution was framed, the discretion as to what is matter of impeachment must vest somewhere. It was, I contend, by our Constitution, given to the House of Representatives to say, in every case, what shall be deemed matter of impeachment.

The Senate cannot, in the first instance, call the offending officer to an account. It has no power to limit or declare his crime. It stands above and beyond, with only the power "on oath to truly and impartially try the impeachment *according to the evidence.*"

I cannot see, in the constitutional provision governing the action of the Senate in the trial "*according to the evidence,*" any

power to dismiss any article from their consideration, or refuse to hear proof upon any article presented.

Notice the distinction between the language of the Constitution of the United States and the Constitution of this State upon that subject. That of the United States has the Senate sworn as a court, to try the impeachment. That of our State is to truly and impartially try the impeachment *according to the evidence.*

What are you to find? Simply whether the charges are sustained by the proofs. That is your oath. You are to say whether you find evidence to sustain the charges made by the House against the respondent, to which he has pleaded, and produced proof. Can you excuse your conscience by saying the facts sustain the charge in any Article, but the matter is not impeachable, therefore you find not guilty? I apprehend not. It seems to me that your oath in this case precludes the power to decide what is or what is not matter of impeachment. The simple oath, to well and truly try the impeachment, as in the Constitution of the United States, may well leave the power to say whether the matter charged be matter of impeachment; but the oath to try "*according to the evidence*" is a mere jury's oath, and leaves no discretion in the court. There is no grant of power in our State Constitution given to the Senate to define what is matter of impeachment. The oath prescribed is inconsistent with such power.

The change in the language from the Constitution of the United States is too marked to be accidental, and indicates that the framers of our Constitution refused to leave that power in this body. That power was solely vested in the House of Representatives, and the power to try in the Senate. The facts of prosecution and defense are a check upon the House, and seem to be a division of the power and responsibility of impeachment between the House and the Senate, and each independent of the other. The House must act when the Legislature is in session, and the Senate cannot act until it has adjourned. The power of the House to impeach is a judicial

one, because it can only be exercised on judicial inquiry. It is judicial here, for you can act only upon proofs presented. The House has the sole power to impeach, and the Senate the sole power of conviction according to the evidence. The House accuse, and the Senate try. The people are both prosecutors and judges, and the power is divided between both bodies of the Legislature. The power to impeach is exercised by the House upon the known, undefined, and undefinable nature of the matter of impeachment, restricted to the person of civil officers, and to matter within the definition of the terms and phrases used in the Constitution, "corrupt conduct in office or crimes and misdemeanors." The power to impeach is the power to investigate the official conduct of every civil officer, and to say upon what facts and for what offenses he shall be impeached, to define and present the articles of impeachment and prosecute the same, leaving this court the sole power to pass upon the weight of evidence and pronounce the judgment. Neither House nor Senate can impeach alone. It begins with the House and ends with the Senate in its judgment.

It is no forced construction to find in the right to impeach, the power to define what conduct and offenses are impeachable, under the tenure and phrases of our Constitution, "corrupt conduct in office," or for "crime and misdemeanors." It seems consistent with the sole discretion to impeach, given to the House. It seems a fit and proper distribution of the power of the two Houses, to give to one branch of the Legislature the sole right, in each particular case, to decide for what acts the officer shall be impeached, and to the other, the power to hear proofs and decide upon the preponderance of evidence and pronounce judgment in the case, as neither body separately nor together represents all the people in impeachment, but between them to be exercised severally.

If the House has not the sole power of impeachment, I cannot see where the power is lodged in the Constitution. Upon this principle, the Managers on the part and in the name of the House of Representatives, ask the judgment of

this Court of Impeachment, whether the several Articles charged are sustained by the evidence. The House has made the accusations against the respondent, and you are to determine whether they are true according to the evidence adduced on the part of the people and the respondent.

I have taken the liberty to present this view of the law in support of the Articles, and also in a reply to that portion of the argument of the learned counsel for the respondent, in which he claims that the charges contained in the 8th, 9th, 10th, and 11th Articles, are mere crimes, official crimes, and not impeachable offenses, and shall leave for the present that branch of the subject.

The Commissioner of the State Land Office is an important constitutional and executive civil officer of the State. In order to have a correct understanding of the proofs in support of the charges, and for the defense, it is proper to consider the nature and duties of his office. We are at great expense in inviting foreign emigration to purchase our lands and settle within our borders. Our people are putting forth extraordinary efforts to settle and improve the unimproved portions of our Peninsula. Immense quantities of land have been appropriated by the State, to open roads in the newer portions, and for other works of internal improvement, with a view to the more speedy development of the resources of the State. Various inducements are offered to the actual settler and others, to settle upon and purchase the various grades of land held in trust by the State for purposes of education, agriculture, and internal improvement. A Commissioner of the Land Office has extraordinary power in the sale and disposition of State lands, with but few checks upon his official conduct. There are, in fact, no checks about his office that would tend to restrain the covetous or unscrupulous man. Many of his important acts are discretionary, and all are independent of any other officer. He acts by himself, or the persons he appoints, and these he may dismiss at will. He may, by collusion with dishonest persons in and out of his office, in

innumerable ways, without fear of detection, defraud the honest and confiding settler of his landed rights; the homesteader from his home and improvements, and affect, injuriously, the title to all lands under his control. He may, in like manner, to personal friends or for reward, give valuable privileges and information to some, and deny them to others, and there is no power to expose or punish the corrupt action, whether done by himself or his clerks. He may aid one purchaser to the inconvenience and damage of another. He may damage or destroy the rights of one settler to the benefit of himself, a favored clerk, or friend, with a consciousness that there is no reasonable chance of detection. He can withhold large quantities of land from sale, under various false pretenses and excuses, in the name of a friend, for his own private benefit, until it can be bargained or sold at a profit. In that office, the opportunities for private gain and speculation are so abundant, and the temptation to violate or evade the law for the benefit of the officers or their friends is so great, and the checks upon official conduct so few and uncertain, as to demand that its chief officer shall possess the highest order of integrity, shall be one in whose moral character and incorruptible fidelity the people can, with safety, confide. He should be a kind of guardian for the ignorant and confiding settler as to his landed interest to the State. He should be not only just and impartial, but above suspicion. A reckless, vile, and immoral man cannot command the confidence of the people in this important office, be he ever so competent. He will not discharge the duties of his office as well as the virtuous. All the presumptions are against his fidelity. He who is known to be vile, false, and corrupt in some things, is presumed to be deceitful in all, and unworthy of confidence. You cannot separate private character and conduct from the official acts and influence. The character, conduct, and influence of the man affect, for good or evil, his whole life in or out of office. He is more or less useful in his public life as he is competent, virtuous, and exemplary. The respondent is accused both of corrupt con-

duct in office and of crimes infamous in character, felonies, of which, if convicted in a criminal court, he would by statute forfeit his office. Sec. 617, C. L. 1871. Upon what principle? Simply that he has disgraced his office, is a reproach to the State, and presumed to be unfaithful in official duties and trusts. If the proofs in this case reasonably sustain the charges contained in the Articles, I apprehend that neither sympathy nor a suggestion of doubts will excuse him from the just and constitutional judgment of expulsion from office.

Before entering upon the discussion of the facts in proof, applicable to the several Articles under consideration, it is but just to the innocent to say that no proofs were offered under Article IV., charging conspiracy with William G. Patrick, Esq., for the reason that none existed. It is due to Mr. Patrick to say that this Article was inserted under a misapprehension of facts communicated to the Managers, and when thoroughly examined, found to have been based upon a statement publicly made by a brother of Mr. Patrick, without foundation in truth or in fact, and which he refused to verify on oath when called at the trial. The Managers regret that the Article was inserted. It was done in good faith, believing it true and susceptible of proof.

The respondent, in the argument of his counsel, concedes the facts charged in the 5th, 8th, and 9th Articles, but denies that the several matters charged therein are subjects of impeachment.

The 8th Article charges the respondent, in substance, that, "with the intent of debauching and corrupting the morals of the youth and other good citizens of the State, he did, on or about the 1st of March, 1872, at the city of Lansing and other places in this State, unlawfully, wickedly, maliciously, and scandalously, publish, circulate, and distribute a certain anonymous and obscene printed paper entitled 'Every Wednesday Night,' containing impure, scandalous, and obscene matters, language, and description, manifestly unbecoming the dignity of his office, a scandal in the community,

and tending to the corruption of the morals of youth and other good citizens of the State, and in violation of the laws of chastity and morality." In defense of this Article, and in excuse for publishing the vile print, the learned counsel for respondent claim, in effect, that it was but an innocent, harmless piece of folly ("the cause of the impeachment"), which they do not approve, and which the Commissioner regrets. They also claim that it is not more obscene than certain passages which standard authors have written and published. The selections read in support of this position well sustained it, and with a little more research they might have added much other similar testimony. Hence, no offense! No violation of the statutes of the State! This defense was ingenious and original, and not confined entirely to this Article. It was a theory of defense as to all Articles sustained by proof. What is or what is not obscene, depends somewhat upon the standard and person by which it is judged. That which a virtuous and respectable community would condemn as too vile for admission into their families or for circulation among the people, the vicious and immoral might deem quite innocent and harmless. What is obscene is more a question of fact to be determined in each particular case, than defined by positive law. The statutes of our State defining offenses against chastity, morality, and decency, among other things, declare in Sec. 5868, C. L. 1857, that if any person shall print, publish, or distribute any book, printed paper, or other thing containing obscene language, prints, pictures, figures, or descriptions, manifestly tending to the corruption of the morals of youth, for the purpose of loan, circulation, or introduction in any family, school, or public place, shall be punished, etc. This Article charges a violation of this statute. The proof is the printed paper before you, printed and circulated by the respondent, beyond all question of a doubt. What is the character and tendency of the publication as discovered from the reading of the paper and the proofs concerning the persons and

matter alluded to? Bishop, in his Treatise on Criminal Law, Sec. 379, declares:

"Every act the common law deems sufficiently evil and directly tending to impair the public morals, it punishes as a crime; such as keeping a bawdy-house, publishing obscene prints and writings, the utterance of obscene words in public places, indecent exposure of person, etc., etc."

The statute of our State is but a legislative declaration and recognition of this principle of the common law. If the reading of this paper, with the knowledge of the facts and circumstances surrounding it and the persons referred to in it, will warrant honorable Senators in saying, on their oath, the paper is not obscene, has no immoral tendency, is not calculated to corrupt the morals of youth, and is no violation of this statute of our State, nothing I can urge will convince them to the contrary. If the appointment of place and details of assignation between a public and notorious harlot and the professedly moral and religious man, the disgusting allusion to the danger of contracting a nameless and loathsome disease by illicit intercourse with this lewd woman, and the necessity of caution by the man in consequence of his having a wife; the vile parody upon "Poe's Raven," the numberless dirty allusions upon the subject of illicit intercourse of the sexes with which the paper is filled, tending in the same immoral direction, will not condemn the paper as obscene, it is difficult to imagine anything that would. Would any member of this high tribunal, the learned counsel for the respondent, or any other respectable gentleman, take this paper to his home, sit down with his family, read and explain it with the surroundings, so that it may be understood as it is in this Court? Would any one of you be willing to allow it in your homes unexplained? Did not every member of the Senate and the House, that received a copy of it through the postoffice, feel outraged and insulted? Even the respondent understood and intended it as a vile and disreputable affair, and a violation of law, or he would not, under an assumed name, and in so stealthy a manner, have

matter, printing, publishing, and circulating this scurrilous paper, indicates that its guilty author must have been morally depraved to such a degree that no good man could have confidence in him. If nothing more was known of the man than what you may learn by the reading of this print, and the proof under this Article, no man of ordinary caution would dare put him in a place of honor or trust. He would naturally argue, if one is so vile, malicious, and depraved as to deliberately do what the Commissioner planned and executed in regard to this paper, he is capable of the highest crime, and cannot be trusted anywhere. Not one of you, and no sensible man, would give such a one room or employment. No one is safe within his reach. It is disgraceful to countenance or associate with such a man. You would not invite him to your home or introduce him to your family. Public sentiment alone would deter you if your own sense of danger did not. The well established facts proven under the 10th and 11th Articles, considered in connection with issuing and circulating this print, show the Commissioner to be not only low and depraved, but an unscrupulous, plotting, and dangerous man. The proofs in this case, the honor and safety of the State, seem to demand your judgment of guilty upon this Article.

The next Article I call your attention to, is Article V., in regard to the sale and purchase of "scrip," so called. The Commissioner, at the very commencement of his official term, entered upon the purchase and sale of scrip, pretending to believe he had a lawful right to do so.

The term "scrip" gives no true indication of the transactions. "Scrip," it is claimed by the respondent, means "land money," or simply some kind of obligation of the State, payable in lands, which is sold in the market at a discount, like uncurrent money, and yet will buy certain kind of land from the State, at its face. The Managers claim it is land, that it represents land, and nothing more or less. It seems to have a certain money value in market, and is transferred in sums

represented in form of money. Yet it is not money, nor the representative of money, nor does it purport to be, and there is no propriety in calling it money. It is land, or a contract for land, and nothing more. The contractor, for constructing certain roads, obligates himself to take pay for his work in land. After taking his contract, he is entitled at once to select, from certain unsold lands of the State, to the amount of his contract, and have the same withheld from sale for him or his assigns, until his contract is completed. When his contract is completed, the land so selected must be patented to the contractor or his assigns, in satisfaction of his contract; and for any balance due him, he may select and purchase any other unlocated lands. This right to select and enter other lands, he may assign, and the assignee is entitled to the same rights as the contractor. The right to select, reserve, and enter these lands, grows out of the contract to construct roads, and originally was confined to the contractor, but is now assignable by law, and remits to the assignee the same rights the contractor had. The contractor had a contract for a certain amount of land, and might demand a patent from the State for the same at any time. The assignee has the same right and nothing more. "Scrip" is simply an assignment of the contract, or so much or such part thereof as the order indicates. If the Land Commissioner, or any of his clerks, held one of these contracts for land, it would not be contended that he did not hold or have, indirectly, an interest in the State lands represented by his contract. The holder of one hundred dollars worth of scrip has inchoate right to eight acres of swamp land and nothing more. It is as much an interest in land as if an actual paper scrip was issued, certifying the holder entitled to a certain quantity of land. The surrender of the "scrip," and selecting the land, are the only requisites to entitle the holder to his patent. This is an "*indirect interest in land*," forbidden by the statute. The use of the name of another, in which to enter land to be held in trust or for the benefit of the Com-

missioner or his clerks, is also, we claim, a violation of this statute.

The testimony fully sustains the fact that it was the uniform practice of this Commissioner, until about the first of June, 1871, to purchase scrip with trust funds under his control, and with the same to enter the lands in all cases where money was sent for the purpose. The extent of the practice is not stated, nor is it necessary, in order to find the respondent guilty under the Article. This practice continued after the first of June, to some extent, as is evident from the testimony of Mr. Coffin, who sent fifty dollars in money to buy forty acres and a fraction of land, and received his patent and some seventeen dollars in money. This land was entered with Barnard & Co.'s "scrip," to their benefit, to the amount of profit on the scrip, perhaps, say $5.00, and to the damage of the school fund, $25.00. This was the only case, after June, 1871, which the Managers were able to produce and prove; yet it is fair to presume the practice continued in all cases where the Commissioner and his Deputy could make by the operation. Certainly, the Commissioner ought not to complain of this presumption, when both the Commissioner and Deputy refuse, on oath, to deny it. It is of no consequence to the question of guilt or innocence, whether there was much or little taken from the school fund, by this kind of financiering, for the benefit and advantage of the Commissioner. The evils growing out of the practice, the evasions of the law, and the temptations to evade it to the damage of the State are so numerous, as brought to light by the evidence, that I think the Senate warranted in finding the respondent guilty of the charges contained in this Article.

In regard to the proofs sustaining the First Article, which charges the Commissioner with "corruptly withholding from sale diverse large tracts of land for the particular benefit and advantage of certain land dealers, for a private pecuniary consideration to himself, his Deputy, and clerks," to the damage and inconvenience of actual settlers, and of the people gen-

erally; and also to the Second Article, which charges that the respondent, "by himself and clerks in office, had directly and indirectly engaged in the purchase of lands from the State," I shall rely mainly on the facts in proof, so ably presented and implied by Manager Huston, and shall only answer the objections made by the learned counsel for the respondent, who last addressed you.

The substance and theory of the defense is, that the several acts of unlawfully withholding lands from sale, and the dealing in lands by his Deputy and clerks, have not been brought home to his knowledge, and that he is not personally responsible for the acts of his clerks, if they act contrary to the rules he has established for their guidance. Section 3796, C. L. 1871, gives the power to the Commissioner to appoint his Deputy and clerks and to dismiss them at pleasure, and declares he shall be responsible for their acts. This statute declaration of accountability ought to be sufficient. The Supreme Court, in the case of The People *vs.* McKinney, 10th Mich., in speaking upon the subject of responsibility, say: "The acts of the Deputy or clerk in office, in the business of the office, are the official acts of the treasurer (officer), and it is his duty to see they were properly made and the books correctly kept as if made by himself." I think there is no escaping this responsibility for the acts of the deputy and clerks. The chief of the department is its only responsible head; he has entire control and management of the office. The acts of his Deputy and clerks are his acts. If he is not bound by their acts, there is no responsibility for them. He appoints, controls, and dismisses his clerks in office at pleasure; and there is no power elsewhere to control or dismiss them. Without this responsibility in the official head of the department, there would be no accountability or safety to the State. The Commissioner need be but ignorant of the acts of his clerks, and gross frauds may be perpetrated by them in office, and there is no remedy for the evil. The Deputy and clerks cannot be removed by the Governor, nor reached by impeachment. If the Commis-

sioner is not responsible for their acts, there is no responsibility. Is this true? No government can be sustained upon this theory. Dismissing the Commissioner for the acts of his Deputy and clerks is the only remedy for unfaithful and dissolute clerks in office.

Aside from this, there is evidence to convince a reasonable mind that the Commissioner must have had knowledge of their acts and approved the same, if he did not participate in the profits thereof. It is scarcely possible that his clerks would have dared to engage in these unlawful and corrupt practices without the expressed or implied consent of their chief, who, it seems, was quite constantly in attendance at his office. If not, why did he not take the witness stand himself, or put his Deputy on, and inform the people of this State who of his clerks were untrustworthy, and had violated the rules of his office and the laws of this State, and brought him to answer this impeachment? It was due to himself, to his friends, and to the party that placed him in power, to show up this whole transaction as it is. If not guilty, he had the power within his own reach to make his innocence appear beyond all question of a doubt.

In civil cases the most important presumptions are continually founded upon the conduct of parties. 1 Stark. Ev. p. 54, says:

"The conduct of parties in omitting to produce that evidence in elucidation of the subject-matter in dispute, which is within his power, and which rests peculiarly within his own knowledge, affords occasion for presumption against him, since it raises a strong suspicion that such evidence, if produced, would operate to his prejudice." "If circumstances induce a strong suspicion of guilt, and where the accused might, if he were innocent, explain those circumstances consistently with his innocence, and yet does not offer such explanation as he is known to possess, a strong presumption arises that he is guilty." 2 Stark. Ev. 688: "And where a party has in his power the means of rebutting and explaining the evidence adduced

against him, the omission to do so furnishes a forcible inference against him."

"Every man, it is persumed, will do that which is for his obvious advantage; thus, if a party be pressed by circumstantial proof, having it obviously in his power to destroy its apparent force by testimony on his side, but which he omits to do, the very omission supplies a presumption against him. Imperfect proofs, of which the accused, if innocent, might clear himself, become perfect."—1 Phil. Ev. 511.

If the Commissioner had no knowledge of the land transactions of his Deputy and clerks in dealing in State lands, and was not interested with them and others in the sale and profits, as the proofs and presumptions would indicate he might have been, why did he not call upon his Deputy, Barnard, to testify in the matter? Why did he not himself deny it on oath, and affirm his own innocence? It was competent for him to testify in his own behalf, and to call his Deputy as a witness. He doubtless did that which was obviously for his advantage; had he and his Deputy been sworn in the defense, they would no doubt have testified that the Commissioner was cognizant of all these transactions of the clerks and Deputy, approved them, and participated in the benefits arising therefrom. He was an equal partner with his Deputy in the scrip deal carried on in his office under the name of W. A. Barnard & Co. In the absence of proof to the contrary he is presumed to have been equally interested with him in his other transactions in the purchase of lands from the State, and general "dicker" in land, horses, and dogs. They were partners in the scrip deal, which is an indirect interest in land, and must be presumed to have been equally interested in other similar extra-official transactions. What is known to exist is presumed to continue; partnership once known to exist is presumed to continue, and to include all similar transactions in the same place. The dealing in scrip is a part of the business of land agents, with which is usually connected the purchase and sale of lands. The Commissioner and his Deputy were known to deal largely

in scrip and jointly interested, and yet the Commissioner did nothing of the detail in that matter. The Deputy dealt largely in lands, under cover and through others, and it must be presumed to have been well known between them. This is the fair presumption of the law upon the facts proved. The Deputy, Barnard, dealt quite largely in land and "minutes," using the name of others. If these acts were unknown to the Commissioner, it would have been an easy matter for the Deputy and Commissioner to have so stated on oath, and thus destroyed the effect of the presumption against him of participation in the profit. These two officials were present during all the proofs, and knew and understood the damaging effects to the Commissioner. Why did they not testify, and clear up the suspicions and presumptions that the Commissioner had knowledge of and was interested in these land transactions? The only answer that can be given is the one presumed in the law,—"that such evidence, if adduced, would be to his prejudice." We must presume that if these parties went upon the stand, they must convict the Commissioner of these charges, or themselves of perjury. But the counsel for the respondent contends that the action is criminal and he cannot testify. Surely they will not contend it is so in relation to the charges for dealing in land; and if it were so, this would not have precluded the Deputy.

There was a copartnership firm of W. A. Barnard & Co., in the office, composed of the respondent and his Deputy Barnard, the profits of which, in the scrip business alone, was at the rate of $10,000 a year, as shown by the books in the Land Office, kept by the chief clerk. There was also a bank account of the same firm kept with Hewitt & Co., bankers at Lansing, showing transactions involving about $60,000. It is conceded by the respondent's counsel, that this firm is composed of the Commissioner and his Deputy. Now what transactions were covered by and included in this bank account of $60,000? Did it include Barnard & Co.'s land transactions operated with money, or purely money transactions? Mr. Barnard could

tell us; the Commissioner, Mr. Co., could tell; yet both are silent and we are left to presume from the testimony of the people, that the Deputy Barnard did deal in lands aside from "scrip," and in complicity with his chief. The strong circumstantial evidence of intimacy and more than ordinary friendship between them, and their joint interest as copartners in some matters, tend to show that the Commisioner must have had knowledge of all Barnard's land transactions and was interested therein. If it were not so, they had the knowledge and should have informed us. From the facts and circumstances proved in support of these two Articles, and the evident presumption against the Commissioner, arising from his neglect to contradict or explain by proof, so certainly within his reach, the Honorable Senators must conclude he had guilty knowledge of, and participation in, these land transactions with his Deputy and clerks; and if so, the finding of this Court must be *guilty*, on each of these Articles.

The Third Article, charging fraud upon the licensed settler on lands, called in this trial the homesteader, seems fully sustained by the direct, positive, and uncontradicted testimony of many witnesses. Transactions with Bouch, Woolover, and Conley show distinctly that these men had been defrauded of their homesteads and improvements by the official act of the Commissioner, in allowing parties to enter the licensed lands and oust the settler, without proof of abandonment, or that the same was not occupied and improved. These acts were carried on in the office by certain of his clerks with outside parties, and in the case of Bouch and Woolover, the Commissioner had actual knowledge of the hardship and fraud upon the settlers. He had full knowldge of the power vested in him to cancel any sale made by mistake or fraud, and refused to exercise it in behalf of these defrauded settlers, yet he gladly used this canceling power when he could thereby restore $50 in scrip to his friend Cornell, though to the damage of the State to the same amount. If he would not correct the sale for Bouch and other settlers, why should he for

Cornell in the case of Bouch? He has not informed us by his own testimony. Why did he not, on oath, give the facts and reasons for this strange conduct in office? Simply because his testimony would have damaged him. He must be presumed to have been interested with Cornell and his clerk, or he would not have acted adversely to the interests of the State and settlers. He must not complain at the conclusions of law against him, when he had the power, if innocent, to show such facts as would have explained the mystery of his pretended ignorance. If he had knowledge of the transactions of Cornell and his clerks in defrauding these settlers, Bouch, Woolover, and Conley, and refused to exercise his discretionary power for their relief, or if he was in complicity with the conspirators, he is unworthy to be at the head of this important department of the State, and ought at once to be deposed. The Managers believe the proof applicable to this Article is sufficiently full and positive to warrant a finding of guilty under your oath.

In regard to the 10th and 11th Articles, the proofs are not as full and satisfactory as the Managers knew to exist and hoped to have presented. It was much less than was given before the committee of inquiry, and read in the House. There was such an outside pressure in certain directions in favor of the Commissioner, that the Managers found great diffiulty in obtaining any proofs, yet enough was dragged before you to convince reasonable men on oath that the Commissioner was not entirely guiltless.

If not sufficient proof to warrant a conviction, there was enough, in connection with other testimony in the case, to show him immoral and dissolute. For the evidence tends strongly to prove that the respondent, upon several occasions, was intoxicated, and carousing in public places with certain of his clerks and others, within sight of the Land Office, and to such an extent as to call the attention of the respectable people at Lansing to his conduct, resulting in the memorial presented

to the House, which was the cause of this impeachment. He is shown to have been a frequenter at a house of notorious ill-fame in this city, at such times and under such circumstances as to induce no other belief but vile and dissolute conduct, degrading to his office and character. The proof was sufficient in a State court to have warranted a divorce, if asked for by his wife. If the evidence under these Articles is not sufficient to satisfy you of his guilt, the facts proven in the case may be considered in connection with other charges, and may aid you in arriving at a conclusion upon other Articles of similar character.

Before closing my argument, I ought, perhaps, to reply to that portion of my brother Shipman's article, touching his favorite subject, "*jurisdiction.*" The importance he has given to it throughout the trial, would indicate it to be *the point* in the case. In candor I must admit, that were it not for the impeachment made in due form by the *House* (possessed of all the facts) to the Senate, when the Legislature was in session, and the provisions of an act entitled "An act regulating impeachment and providing for the expenses thereof," approved March 30th, 1872, his argument would have been conclusive against the prosecution. This point was taken before the respondent answered, and was the subject of an able and exhaustive argument by brother Shipman; briefly replied to by the Managers, citing the formal impeachment by the House, before adjournment, as shown by the journals of both branches of the Legislature; and also Sec. 3 of the act of March 30th, last, "empowering the House to authorize the Managers to prepare and present Articles of Impeachment in accordance with the resolutions of impeachment by the House." It will be noticed that this act was passed, approved, and took effect the day after the formal impeachment of the respondent by the House, at the bar of the Senate. The authorities presented by my associate, Mr. Cochrane, in his preliminary argument, fully sustain the position that the impeachment was complete when the House in form accused the respondent, at the bar of

the Senate, of *corrupt conduct in office* and also of *crimes and misdemeanors*. The preparing of papers and presenting the Articles in accordance with the report, resolution, and act of impeachment, it is claimed by the Managers, were merely formal and clerical. That question, and the arguments upon it, were fully considered by the Senate at considerable length, and with closed doors; and the jurisdiction of the Senate was sustained by a vote of twenty-five to two, overruling the motion to dismiss. Now, after receiving the entire testimony in this case, occupying some three weeks, involving great expense to the State, the learned counsel for the respondent, with apparent sincerity, presents the subject anew upon the same authorities, and, with lengthy argument, urges the Senate to overrule its former and well considered decision.

The case was, indeed, desperate, to deny jurisdiction so tenaciously when the respondent was so exceedingly anxious to meet this case upon its merits. The Managers now answer that part of the argument denying jurisdiction, by saying that point has been once adjudicated by this tribunal, and until it indicates a dissatisfaction with its decision and desires a re-argument, I ought not to weary Senators and delay the Court further upon that subject.

It is not a little noticeable that the respondent, so anxious for a speedy hearing of the accusations upon the merits, as professed by his letter to the committee of the House, to be found on the journals, and so frequently brought to view by his zealous counsel, should expend the great force of his defense upon the trial, in earnest and extraordinary endeavors to dismiss the case upon technical grounds, without trial; and also, in refusing to meet the damaging effect of the testimony and presumptions of law by his own testimony or that of his deputy. The theory of the defense "upon the merits" seems to be, that you have no power to try me; and if you attempt it, you must prove the charges by the technical rules of evidence in criminal cases, and give me the benefit of all doubts. When damaging and suspicious evidence has been brought

against him which, if false or erroneous, it lay within his power to explain or destroy its force, and he declines to do so, the conclusion to my mind is that he is guilty as charged; aye, even more guilty and corrupt than even the charges indicate.

His strange and extraordinary course in this trial cannot be reconciled upon any other theory. An innocent man desires to be considered innocent. This is the law of life. If innocent, he had the power, by his own oath and that of his Deputy (the active manager and confederate), to show his integrity to the people, and that he was the victim of corrupt and dissolute clerks. But instead of this, like a guilty criminal, he denies the power of the Court to try him, refuses to explain suspicious transactions in his office, and clamors most loudly for the benefit of doubts. The office to him has been a lucrative one. From all the evidence, he must have gotten therein at least $10,000 a year, besides his salary. The honest settlers and land purchasers have suffered by his acts in office. The office has been disgraced by his infamous extra-official conduct. The State has been damaged by the general distrust and loss of confidence in the management of the office, and by the necessary expense of the investigation of the office at the demand of the people. He has, by corrupt and vile practices, become a reproach and burden to the State, and ought to be removed from office and power. The times, the office, its present importance, the good name and welfare of the State, demand it. It is no case for sympathy, forgiveness, excuse, or doubts. It demands the firm, unflinching judgment of guilty. If there ever was a time when faithfulness and unfaltering courage was the plain duty of all in official stations, that time is now.

> "The land wants such
> As dare with vigor execute the laws;
> Her festered members must be lanced and tended.
> He's a bad surgeon that for pity spares
> The part corrupted, till the gangrene spread,
> And all the body perish. He that's merciful
> Unto the bad is cruel to the good."

I trust, naught but the spirit of justice, which dwells in the soul of the people of this State, will be represented here; that you will do nothing in hate, nothing in favor, all in honor, as the proofs show the truth to be. This I believe you will do. I will believe the integrity and sense of justice of the people are in this court. On them I rely. The House of Representatives of the State of Michigan rely upon the justice and integrity of this Court. If the respondent be innocent, by the evidence, injure no hair of his head. If guilty, in the name of the people, I urge you not to disgrace the fair name of the State by allowing him to longer exercise the functions of this important office. Say to the respondent, You have abused and dishonored the trust of the people; you shall no longer disgrace the office of Land Commissioner; go from it.

The House of Representatives, by its Managers at your bar, ask for justice; nothing more, nothing less. The people have closed their case and demand the judgment of this Honorable Court.

OPINION OF SENATOR ROMEYN.

The want of a precedent in this State for the proceedings connected with this case, has left open up to the present instance the question which was urged at the beginning of the trial by the counsel for the respondent, whether the Senate had acquired jurisdiction in the matter, and would entertain the Articles presented by the Managers.

The motion to dismiss the Articles of Impeachment is found on page 13 of the journal, April 30, and is as follows:

"*Whereas*, The House of Representatives have the sole power of impeaching civil officers; and

"*Whereas*, It does not appear that the Articles of Impeachment presented against the respondent in this case have been agreed to or adopted by the House; but it does appear they were not; therefore,

"On motion of counsel for respondent, it is

"*Ordered*, That the said Articles and these proceedings be dismissed, and the Senate take no further jurisdiction of the case."

After mature consideration by the Senate, the motion was denied, by the decisive vote of 22 to 2.

The position taken by the counsel for Edmonds was, in brief, that the House of Representatives undertook to *delegate powers to certain individuals*, conferred upon them as a body by the Constitution (Art. XII., Sec. 1) in the following words: "The House of Representatives shall have the sole power of impeaching civil officers for corrupt conduct in office, or for crimes and misdemeanors; but a majority of the members elected shall be necessary to direct an impeachment." In other words, that the impeachment was undertaken to be perfected by the Managers elected by the House, and not by the House itself, for the reason that the Articles of Impeachment were never submitted to nor approved by the House.

The proceedings in the House appear from the official journal of the last Extra Session.

Upon a petition presented by citizens of Lansing, for the impeachment of Edmonds, the matter was referred to a select committee of five of that body, with power to examine into the charges and report their conclusions. The committee, having completed their investigation, reported to the House the evidence taken by them, in writing, at great length, together with a resolution "That Charles A Edmonds, Commissioner of the State Land Office, *be impeached*, for misconduct in office and for crimes and misdemeanors;" of which resolution they unanimously recommended the adoption.

The consideration of this, together with that of the evidence upon which it was founded, was made the special order; and after careful investigation, and part of the time with closed doors, the resolution was adopted by the House by a vote of 79 to 5. Immediately following this, a committee was appointed "to go to the Senate, and at the bar thereof, in the name of

the House of Representatives and of the People of the State of Michigan, *impeach* Charles A. Edmonds," etc.; "and acquaint the Senate that the House of Representatives will, in due time, exhibit particular Articles of Impeachment against him, *through its Managers to be elected*, and make good the same, and demand that the Senate take order," etc. Which committee performed the duty intrusted to them, informing the Senate that they appeared in obedience to the order of the House, and in their name and that of the People, did *impeach* Charles A. Edmonds, etc. The report of this committee was made formally to their own body, duly accepted, and the committee discharged. The House thereupon, under the constitutional provision, elected three Managers deliberately by ballot, "to prosecute the impeachment," *i. e.* the impeachment of which the Senate had been notified; and the Governor forthwith officially communicated with both branches of the Legislature, suggesting the necessary provision for the trial of the accused, "having received *official notice of the impeachment of a State officer.*"—Journal, p. 164.

These proceedings were all of the most deliberate and solemn character, and the only question is, whether they were such as are contemplated by the Constitution. It is certain that the Legislative construction sustains the action of the Senate in asserting jurisdiction, and reference need be had only to the act providing for the trial passed by both Houses and approved by the Governor, to ascertain what the intent and understanding of the co-ordinate branches of the government was.

Now, the theory of our form of government will forbid the delegation of the powers of the House, and the clause of reservation contained in the Constitution must be strictly observed; so if the impeachment in this case was not effected by the House itself, acting in its collective and constitutional capacity, the filing by the Managers of Articles drawn by them could not operate in itself as an impeachment, and the question must turn on the meaning of the word "impeachment,"

as employed in our Constitution; and only with its meaning in that instrument have we to deal.

That the power to impeach is an extraordinary power, and to be exercised with caution and strictness of construction, is apparent; but after careful attention to the argument of counsel for the respondent on the motion to dismiss, I am well satisfied in my own mind as to the correctness of the view taken by the Senate.

The House did, "by a majority of the members elected, direct an impeachment." Was not this impeachment completed when the resolution to impeach had been adopted, and the House Committee "impeached" the accused at the bar of the Senate?

The House then "elected from their own body three members whose duty it should be to prosecute such impeachment" (Constitution, Art. XII.), and these Managers, elected for the purpose, prepared the articles, founding them exclusively, as was their duty, upon the evidence which had been previously submitted to and maturely considered by the House, and upon which the whole action of the House was based.

It is not necessary to inquire what might have been the course of the Senate as to entertaining or refusing to entertain these Articles had they been in such form or contained such charges as not to be justified by the evidence taken before the Committee and acted upon by the House,—in other words, if they had not been merely a formal statement of the charges laid before the House. This was not the case here; and the Senate had a right to take judicial notice from the journals of that fact,—that the action of the House was founded upon the evidence produced, which they believed to be such as justified their impeachment of respondent upon the charges made.

I am of opinion that while the Articles framed by the Managers might well have been submitted to the House for approval, had that body continued in session, no necessity for so submitting them existed, and that no delegation of the general

constitutional power of the House was attempted, the "*impeachment*" consisting in the adoption by the House of the resolution of impeachment and the notification to the Senate. The Managers performed a merely *ministerial function*, and were properly clothed by the House with the necessary authority to condense into proper limits and set forth in the proper form *the facts charged by the House* against the respondent, as appears of record. Our Constitution provides that the trial shall not proceed until after the final adjournment of the Legislature, and hence plainly does not contemplate the attendance of the members of the Lower House in committee of the whole at the trial, which has been the practice in the absence of such provision, nor the active participation of the House, even as a matter of form.

As to the point raised, that the Articles should have been signed by the Speaker of the House,—it is of no importance, if the view I have expressed be correct. The signatures of the authorized Managers authenticate them, and the filing makes of them a formal and permanent record.

In conclusion, I refer to the meaning attached to the word "impeachment" by the Congress of the United States in the proceedings connected with the trial of Andrew Johnson.

Vol. 1, p. 2 (Feb. 22, 1868):

"*Resolved*, That Andrew Johnson, President of the United States, *be impeached* of high crimes and misdemeanors in office."

Feb. 24, 1868:

Resolved, That a committee of two be appointed to go to the Senate, and at the bar thereof, in the name," etc., "*to impeach* Andrew Johnson," etc., "and that the committee do demand that the Senate take order for the appearance of said Andrew Johnson to answer to said impeachment."

In the Senate (same volume, p. 5) Senator Howard from the select committee reported on 26 February, 1868, a resolution commencing as follows:

"*Whereas*, The House of Representatives, on the 25th day of the present month, by two of their members," etc., "at the bar of the Senate, *impeached* Andrew Johnson, President of the United States," etc.

Which resolution was adopted.

The meaning thus attached to the word "impeachment" in this leading case in our own country, will fully justify the action of this Senate upon the question considered and decided at the commencement of the trial.

JAMES W. ROMEYN,
Senator First District.

OPINION OF SENATOR BRIGGS.

The respondent, Charles A. Edmonds, Commissioner of the State Land Office, stands impeached by the House of Representatives, and on trial before the Senate, charged with eleven distinct offenses, impugning both his official and personal character, "for corrupt conduct in office and for crimes and misdemeanors." The importance of the case, the magnitude of the interests involved, affecting not only the efficient and honest management of the State Department of our own State Government, as well as the official and personal character of the accused, are considerations which make it the most important inquest which ever convened in this State.

At the commencement of these proceedings, the question of jurisdiction was raised by the council for respondent. It is a question of law, and involves the legal right and power of this Senate to hear, try, and decide the case, in the manner and form presented by the House of Representatives, through its Managers. Upon this point I have deemed it proper to state my views, and file them as a part of the official records of the case. While the reasons here stated, and which determined

my vote on the motion, may not convince others more learned and skilled in the interpretations of constitutions, the conclusions reached are honestly entertained, and the duty discharged under a consciousness that it was right.

A brief statement of the motion and the reasons urged in support of it by respondent's counsel, together with the objections offered against it on the part of the Managers, will be necessary to a clear and full understanding of the question. The following is the motion which was submitted, and which raised the point of jurisdiction of the Senate, not only as to the respondent, but the subject-matter of the case.

"*Whereas*, The House of Representatives have the sole power of impeaching civil officers; and

"*Whereas*, It does not appear that the Articles of Impeachment presented against the respondent in this case have been agreed to or adopted by the House; but it does appear they were not; therefore,

"On motion of counsel for respondent, it is

"*Ordered*, That the said Articles and these proceedings be dismissed, and the Senate take no further jurisdiction of the case."

On the argument, it was claimed by counsel for the respondent that the House of Representatives, under the Constitution, possessed the sole power to impeach civil officers; that to constitute an impeachment the Articles must be settled and adopted by the House in its legislative capacity. Until this was done, no impeachment was effected. The words "sole power," used in the first section of Article XII., exclude every other authority. Hence, the power could not be delegated by law to the Managers on the part of the House, to prepare and present articles against the accused, to the Senate, when organized as a court.

It is admitted, by the Managers, that the House has never concurred in or passed upon the Articles; but they were prepared by them in pursuance of its action in the passage of the report and resolution of the select committee, March 27th,

1872, and by authority of the law approved March 30th, 1872.

It must be conceded that if the law and practice both in England and under the Federal Constitution, as well as the States, were to govern trials of impeachment under our Constitution and laws, the objection would be well taken, and it would be the duty of this Court to acquit the respondent. By the Constitution, Article XII., "Section 1, The House of Representatives shall have the sole power of impeaching civil officers." By "Section 2, Every impeachment shall be tried by the Senate;" and by "Section 3, *No impeachment shall be tried until the final adjournment of the Legislature, when the Senate shall proceed to try the same.*"

It is clear to my mind from the language here quoted that the makers intended a new and different mode of procedure in trials of impeachment. It must be presumed that they knew what the law and practice in such cases were at the time they formed it. In view of that, they had especial reference when they placed the last clause of the third section in the instrument. The time when the trial is to be held changes former practice for the reason that all the proceedings (after the impeachment) of the trial are required to take place after the adjournment, and not during the actual session of the Legislature. Nor can the Senate organize into a court, until such final a adjournment. For the Senate to act as court while sitting and acting in its legislative capacity would require the exercise of different powers than such as are legislative. The functions of the Senate, as a branch of the Legislature, and as a court for the trial of an impeachment, are essentially distinct. It acts under the Constitution, from which it derives its power, and which limits its duties to the performance of specific acts. It cannot act in conjunction with the House in the impeachment, or in the trial. It possesses no power to arrest the action of the House in the impeachment. It must entertain the impeachment when preferred. But it can only act authoritatively when organized as a court.

The power to impeach, by the first section of Article XII., is solely vested in the House of Representatives. When it is done, it has exercised its exclusive constitutional power. It becomes important to inquire what constitutes an impeachment under that Article. In technical language it is evident to me that all the term "impeachment" implies or requires is some formal action on the part of the House expressive of will. This may be expressed by resolution. In the present instance, the House of Representatives having adopted the report and resolution reported by its select committee on the 27th day of March, 1872, was such formal action. And thereby the respondent was impeached. Its further action in the matter, as by passing upon the Articles, it could relinquish or retain, as it saw proper. It is not required for the House to pass upon and settle the Articles. They constitute no part of the impeachment. They are useful, for the reason that they apprise both the Court and the accused with what offenses he is charged, and determine the character and admissibility of the evidence to sustain them. Settling the Articles on the part of the impeaching branch of the Legislature is purely a matter of practice. Under our Constitution the Legislature, in my judgment, can transfer to the Managers this power, unless prohibited by the Constitution. Has it imposed any restrictions on the Legislature in this regard? If it has not, then upon every principle of law applicable in the construction of written constitutions, the power of the Legislature is omnipotent over the subject.

I find no language in that instrument prohibiting the Legislature from regulating by law the practice in such cases. I take it for granted that the power does exist. Let us see if this conclusion is correct upon principle. A written constitution of a State under our system of government is not a grant of power, but a limitation of power where it would otherwise be too general or unlimited, as well as to impose certain duties on the Legislature. These restrictions and duties are defined under general terms. The

Legislature is vested with the sole power of enacting laws, "and an act of the State Legislature, not prohibited by the express words of the Constitution or by necessary implication, cannot be declared void." In all cases they must be presumed to be Constitutional, and only when the law manifestly infringes some provision of the instrument can it be declared void. "In cases of doubt, every possible presumption," is to be made in favor of the act.

I am satisfied in my own mind that the "Act approved March 30th, 1872," is within the power of the Legislature, and, tested by the rules of law just stated, is constitutional. By sections 3, 5, and 15 of the act, the Managers are vested with all the power which the House could have possessed in the absence of law, and acting under the authority of common law. It transfers the details of the proceeding from the point of impeachment, to the Managers, who conduct the same before the court of inquest, fulfilling in such capacity the ordinary duties of attorneys in courts of law. It is necessary that some law should provide for trials of this character, other than the usual course practiced in all other States, or no trial could ever be held under our Constitution. No other tribunal can provide the necessary wants, but the Legislature; to whose wisdom, and sound discretion the matter is confided, whose decision in any case must be final, and from which there can be no appeal.

It seems to me that this conclusion is irresistibly drawn from the whole tenor of Art. XII. of the Constitution. Former practices, the relics of barbarous ages, can furnish no precedent to govern this Court. They may be instructive, useful to aid us in construing our own written law. Beyond that they possess no binding force, when palpably contrary to the letter and spirit of the instrument. The nature, object, scope, and design of the whole instrument is to be considered. Each point must be made to harmonize, so as to conform, and carry out the intent of its makers. Each clause must be construed with that which precedes and follows it. Words are to be

understood in their common usage. When they admit of two senses, that sense must prevail which best conforms and carries out the object and purposes of the instrument. Guided and governed by these principles, our conclusions will be correct and just.

I do not wish to be understood, nor do I claim, that the Constitution absolutely prohibits the House from passing upon and settling the Articles, but that it may or may not, as in its wisdom and discretion it sees proper. Nor will these proceedings furnish a precedent which future Legislatures will be bound to follow in this regard. The law can be repealed and the House resume the right to pass upon and adopt the Articles, but there it must stop. It cannot act further. The question is not whether it can, but must, to complete the impeachment. I am clearly of the opinion it is not necessary. Entertaining these views upon the question raised by respondent's counsel, the motion to dismiss for want of jurisdiction was properly overruled.

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